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P-1

P-1

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Legislative Assembly of Ontario

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Official Report of Debates (Hansard)

Thursday 16 November 1995

Journal des débats (Hansard)

Jeudi 16 novembre 1995

Standing committee on
public accounts

Comité permanent des
comptes publics

Organization

Organisation



Chair: Dalton McGuinty
Clerk: Todd Decker

Président : Dalton McGuinty
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 16 November 1995

Jeudi 16 novembre 1995

The committee met at 1002 in committee room 2.

ELECTION OF CHAIR

Clerk of the Committee (Mr Todd Decker): Honourable members, it is my duty to call upon you to elect a Chairman. Are there any nominations for the position?

Mr Dominic Agostino (Hamilton East): I move Mr McGuinty.

Clerk of the Committee: Are there any further nominations? If not, I'll declare nominations closed and Mr McGuinty duly elected Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr Dalton McGuinty): Good morning and welcome to all committee members. If only all elections were that straightforward, eh?

The first task I have is to call for nominations for Vice-Chair of our committee. Are there any nominations?

Mr Agostino: I nominate Mike Colle.

The Chair: Are there any further nominations? Seeing and hearing no further nominations, I declare Mike Colle to be Vice-Chair of our committee.

APPOINTMENT OF SUBCOMMITTEE

The Chair: The next item on our agenda is one which calls for the establishment of a subcommittee on committee business. It's my understanding that that subcommittee would consist of myself as the Chair, Mike Colle as the Vice-Chair, and we also require a representative from each of the other two parties, if I could have some names.

Ms Shelley Martel (Sudbury East): I'd like to nominate Gilles Pouliot, but I will stand if you would like, Mr Chair, if that would be easier.

The Chair: Very well. Shelley Martel will sit on behalf of the New Democratic Party.

Mr Marcel Beaubien (Lambton): I'll nominate Steve Gilchrist.

The Chair: Steve Gilchrist. Any further nomination from the Conservatives for that position? Seeing none, all right then. I'll need a motion, if someone could put one forward.

Mr Mike Colle (Oakwood): I move that a subcommittee be set up on committee business, as set out in agenda item 3, with the inclusion of Mr Gilchrist, Ms Martel and the Chair and Vice-Chair.

The Chair: All in favour of that motion? Motion carried.

At this time, we have no substantive business before us for consideration. But after some discussion with the

parliamentary staff here, I thought it would be appropriate at this time that we learn a little about the role and function of the committee; also, our Provincial Auditor, Erik Peters, had a few things to say as well.

But preliminary to that, there are a number of new members here and a number of us don't know each other. I thought it might be appropriate that we begin with Gary Fox here, for instance, and just introduce yourself, tell us when you were first elected and a tidbit about your background so we can gain an understanding of who we all are.

Mr Gary Fox (Prince Edward-Lennox-South Hastings): I'm Gary Fox and I represent the riding of Prince Edward-Lennox-South Hastings. It's my first term. My background: I'm a land speculator and hobby farmer—in simple words, a farmer.

Mr Steve Gilchrist (Scarborough East): Good morning. My name is Steve Gilchrist. I was just elected in this most recent provincial election. Before that, my last lifetime was 25 years with Canadian Tire running a variety of stores across Ontario, and involvement behind the scenes in the party as party president and a number of other positions.

Mr Toni Skarica (Wentworth North): Toni Skarica is my name. I'm from Wentworth North. This is my first term. Before I did this I was an assistant crown attorney, and I'm wondering what the heck I've gotten myself into.

The Chair: Aren't we all?

Mr Dave Boushy (Sarnia): I am David Boushy. I worked for Esso in Sarnia. It's my first term. I also spent 22 years as a member of Sarnia city council before I joined this body.

Mr Beaubien: I'm Marcel Beaubien, the riding of Lambton, first term. I was mayor of the town of Petrolia for nine years and councillor in the town for six. Previous profession: general insurance agent and property development.

Mr Bill Vankoughnet (Frontenac-Addington): My name is Bill Vankoughnet. I come from eastern Ontario; Napanee is my home town. I represent the riding of Frontenac-Addington. My previous incarnation was as a federal member of Parliament, and before that as a civil servant for the provincial government. I have some private investments that I don't make any money at, and I'm looking forward to representing the people here at Queen's Park.

Mr Gary Carr (Oakville South): My name is Gary Carr. My past history is that I was a beat-up old goaltender.

I can't believe we actually started on time. This is the first time in four and a half years that the committee's started on time. Mr Chairman, I think that's terrific, and I'm pleased to be here this morning.

Ms Martel: I'm Shelley Martel, the MPP for Sudbury East. I was first elected in 1987, and from 1987 to 1990 I sat on public accounts with my colleague Gilles Pouliot, although he's probably the veteran of this committee now. He was here in 1985.

Mr Agostino: Dominic Agostino, Hamilton East. I was elected in June. My professional background is in social work. I spent 15 years in municipal politics, seven as a school trustee and eight years as a councillor in Hamilton-Wentworth.

Mr Colle: Mike Colle, just elected, representing Oakwood. I was a high school teacher for 18 years at St Michael's College School here in Toronto. I went on to serve supposedly part-time in politics as a Metropolitan Toronto councillor, and I served there for six years, along with being on the TTC where I served as chair. And now I'm here.

Mr Bruce Crozier (Essex South): Bruce Crozier from Essex South. I was first elected in a by-election in 1993. Prior to that I was mayor of the town of Leamington. Professionally, I'm a certified general accountant, so I have a great empathy for our Provincial Auditor and his staff, and I'm also a registered insurance broker.

The Chair: I represent Ottawa South. I was first elected in 1990 and I was a practising lawyer.

I want to introduce at this stage, if I might, two people who will be of tremendous assistance to us throughout our work here: Todd Decker, our committee clerk, and Elaine Campbell, our researcher. I want to give them the opportunity at this time to say a few things, and then I'm going to turn it over to Erik.

Clerk of the Committee: Thank you, Mr Chairman. I'll be very brief. As clerk to the committee, I'm the principal administrative and procedural officer to the committee. I ensure that when meetings are arranged you have all the papers you need, that the witnesses you've asked for are in attendance, and all sorts of other administrative duties as directed by the committee. I also provide procedural advice to the Chair during the conduct of the meeting and to any members on request, drafting motions or just understanding parliamentary processes.

I've provided you with a one-page thumbnail sketch of what the committee's about, some of its recent activities. At your places I've given you a copy of the committee's most recent biennial report, which is the committee's own report on its own activities. That will give you a feel for what the committee has recently done.

1010

Also on the table, on this side, I've provided copies of some of the substantive reports the committee has recently tabled in the House, on special education, for instance, curriculum development. If you're interested to getting into a little bit more detail on the substantive issue that has arisen out of the auditor's annual report, those documents are there.

Ms Elaine Campbell: I don't know whether I'll be quite as brief as Todd. The support that the legislative research service provides to committees is fairly uniform, and I'm sure that many of you have heard presentation by fellow staff members in other committees. We respond to research questions and needs as they arise during hearings and meetings. We draft reports and we prepare summaries of recommendations for use during clause-by-clause consideration of bills.

Our relationship with the public accounts committee is unique in that it is much more active and adheres to procedures that have developed over quite a lengthy period of time. As Todd has already made reference to, one of the major activities of the public accounts is to examine the Provincial Auditor's report.

Once the committee members have chosen those sections of the report which they wish to examine, research staff members meet with the appropriate staff from the auditor's office in order to prepare background reports for use by the members during the hearings on that particular section of the report. Those reports usually summarize and provide context for the auditor's concerns, and often include suggestions for questions that members may wish to raise during the course of the hearings.

Past practice has also seen the research staff make in camera presentations to the members of the committee prior to the commencement of a set of hearings.

Reports are drafted according to the committee's direction as required, usually at the end of a series of hearings. Before drafts are sent to committee members, they are vetted by the auditor's staff to ensure that technical terminology is used correctly and in the proper context. That same procedure would apply to any of the background reports that we prepare as well.

But our involvement with the committee is not restricted to the auditor's report. We attend all committee and subcommittee meetings and respond to whatever research needs and requests arise during those sessions. If individual members do have questions they would like examined for their own use, we will certainly deal with those on an individual basis.

One final point: I will be the principal researcher attached to this committee, but one of my colleagues, Steve Poelking, who is sitting in our audience, will be providing assistance as needed.

The Chair: Thank you. Are there any questions or comments arising from that? Then why don't we proceed with you, Mr Peters, please.

BRIEFING

Mr Erik Peters: Thank you very much, Chair. I'll try to be as brief as I can, but these are pretty heady times and I think this committee will have a pretty exciting ride. There is some very exciting stuff coming, not already presented in my report of 1995, but there's also some exciting stuff happening at the end of this week which may involve this committee to some extent, and I'll touch upon this in a second.

Firstly, I'd like to congratulate all of you and each one of you on your appointment to this committee. In the short time I've been here, it has been a very exciting

committee. They've got a lot of work done, improved a lot of operations. The committee really made a difference.

The main purpose of my presentation is to provide you with a brief overview of my role as Provincial Auditor of the province and how my office and this committee interact and to highlight matters which I believe deserve your consideration as a legislative committee.

Before I start on the role of the Provincial Auditor, a bit of historical perspective and background may be useful. The audit office and this committee have had more than 125 years of association. The last 25 years or so have been particularly close. Ontario has had a public accounts committee since 1868. The first auditor of the province was appointed in 1869. I won't start with Adam and Eve; I just wanted to give that perspective that it is a long-standing tradition.

The audit office was, through legislation, separated from the Treasury to provide for independent auditing of the public accounts of the province. Thus, perhaps the longevity of these two legislative institutions underscores the importance of improving financial management, of strengthening accountability of government operations, and actually, as you will have seen in the last few years, of strengthening government operations and administration itself.

Currently, the operations of my office are governed by the Audit Act, which was last revised in 1977. We have a number of handouts for you, which I would prefer be given out at the end; Todd has them all. They are essentially the Audit Act, which we thought you might be interested in, as well as the chapters in the 1995 report dealing with my office and the one dealing, more importantly, with the standing committee on public accounts.

The mission of my office is to provide objective information to the Legislative Assembly and recommendations resulting from our independent audit activities of government programs, its crown agencies and corporations. In doing so, my office assists the Legislature in holding the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money in government operations.

We achieve this through our audit of the financial statements in the annual public accounts. If I get off on that I can talk for about two hours; they're fairly complicated. The one thing about them is that they're relatively unknown. Very few people see the public accounts or take a close look at them. That's something we'd like to foster, because one of the things I pointed out in my highlights to the media was the fact that there was, for the last two years, an almost \$3.7-billion difference between the deficit budgeted and the deficit actually shown in the public accounts, which was significantly higher.

According to the last two sets of public accounts, the deficit was around \$21 billion, and budgeted at the same time was \$17.3 billion; that arose through the use of a different view of financial reality and different views of accounting rules in the budget as compared to the public accounts. So gradually, what is happening now—and this is why we're pretty well in for an exciting ride—a lot of

action has taken place and we're waiting, really, for the culmination of it.

In the 1995 budget plan, the government already went into providing a reconciliation between the budgeted deficit and what it would look like in the public accounts. On July 21, the new government took a further step by including in the budget a forecast of \$8.7-billion deficit for the current year, by taking out what is called the loan-based financing. You can ask me questions about that after; I won't voluntarily explain it unless you want me to. But that was one of the major chunks of the difference, and that has been looked at.

Also, this issue has been included in the mandate of the Ontario Financial Review Commission. Their report, if my memory serves me right, is expected to come out tomorrow morning. That's one area where this committee may want to make a decision and may want to see whether it wants to get involved in those recommendations.

One of the mandate items was to look at the desirability of putting the methodology used in the budget to forecast the deficit—the results, hopefully, eventually surpluses that reduce the debt—on the same basis as is used in the public accounts.

Our office, incidentally, in addition to doing the public accounts, audits directly something like 60 agencies of the crown, and some of them are quite sizable. For example, the Ontario Lottery Corp has annual revenues getting close to \$2 billion a year. The other major one is the Liquor Control Board of Ontario, with revenues of about \$1.7 billion or \$1.8 billion a year. There are quite a number of others, and we are quite active in that area.

Beyond that, we have the right—a certain number of audits, about eight of them, are conducted under our direction, but we receive the auditor's report, the same as the other. The largest one of these is the Workers' Compensation Board of Ontario, which is done under our direction and where we have a special responsibility.

1020

Then there's another set of agency audits, but these are incidentally audited by private sector accounting firms. It's just under our direction and I can explain to you how we interpret the direction status on those, if you would like me to.

Then there's another set of agencies which are audited by private sector firms where we have a more remote interest, but on behalf of the committee or if we see anything of interest we can ask for the auditor's working papers and have access to all the records to look into the affairs of that organization that are of interest. The largest one of these is Ontario Hydro. They fall into that category as well. They fall into some sort of access category but not as direct as the others.

Further, the other highlight of our year is essentially the tabling of the annual report which deals only in a summary way with those financial audits because under the public accounts of Ontario I give a separate audit opinion which of course, as you can imagine, requires an awful lot of work in my office. But the content of that report, which I just tabled on Tuesday for 1995, is outlined in subsection 12(2) of the Audit Act. It has to

deal with such things as whether moneys were spent prudently, whether there's due regard for economy and efficiency, whether, for example, the effectiveness of programs is appropriately measured and evaluated and reported.

That tabling, as one of your colleagues who's not here, Gilles Pouliot, mentioned this morning, is our 15 minutes in the spotlight, but in the last few years that spotlight has been a lot longer and the role of our office has become quite important and the work that you have done has been quite important to us.

We essentially work for the Legislature. In fact, the staff of my office are servants of the Legislative Assembly. We consider the Legislature as our client, with your committee acting on behalf of the Legislature. Ministries, agencies, boards and commissions and the books of the Legislative Assembly are subject to audit by my office on behalf of you, and the standing committee itself could be referred to as the audit committee of the Legislature.

Sections 16 and 17 of the current Audit Act are of particular importance to this committee from the point of view of permitting the committee, by resolution, to have my office perform special tasks, either special examinations or reviews on any matter that is of interest to the committee.

Being a legislative office, we try to respond to the needs of all 130 members of the assembly. At the same time, members should be aware that given the wording of the two provisions, I'm not permitted to perform audits. I can only do those audits if the provisions of sections 16 or 17 are applied, which means that essentially an individual member cannot ask me to do anything on their behalf. It's done in the United States. For example, the GAO, the general accounting office, the controller general of the United States acts on behalf of individual members, but my office can only act by resolution of this committee or if the Legislative Assembly as a whole asks us to do something or if a minister asks us to do something, but there are certain brakes put on to stop ministers from asking to do specific work. For example, we can decline those assignments if they are in conflict with the other duties of my office.

With respect to our attendance at meetings of the committee, the Audit Act provides that at the request of the committee the Provincial Auditor and any staff of my office shall attend all meetings of the committee to assist the committee. The practice has been that there's a standing request that I and appropriate members of my staff, depending on the issues being discussed, will always be present and sitting up at this table to act in an advisory capacity. Normally I also attend all subcommittee meetings to help in giving advice on decisions as to where you would like to go.

As the Provincial Auditor, I recommend corrective action. I do not have any enforcement powers. Of course, the effect of publicity that may come from the disclosure of our audit reports and the prospect of this committee making its recommendations to the Legislature will greatly influence the action taken on the recommendations made by my office. So your reaction is very, very important.

To prepare its reports, this committee calls deputy ministers, and in exceptional cases has called ministers, to appear before it to account for their ministry's management practices. To quote Patrick Reid, a long-serving past Chair of this committee, "Deputy ministers do not want to appear before this committee—appearing before this committee is not looked upon as the highlight of either their day or their career—nor by their ministers, who come in for either direct or indirect criticism if there is a screwup in the ministry."

The public accounts committee plays a key role to foster that action is taken on the recommendations in the annual audit report. The committee's interest and active involvement in the results of our work greatly enhance my office's service to the Legislative Assembly. By selecting sections from my annual report for review, the committee's work complements the work of my office, and in so doing, actually completes the accountability loop.

Although this committee does not have the powers of enforcement under the standing orders of the assembly, any committee under those orders has the ability to request the government to table a comprehensive response within 120 calendar days of the presentation of a committee report. So you have a certain amount of clout in that regard.

Again, we view our report as a catalyst for action to improve operations. It is designed to help the legislators to have better information and better tools to do what they consider the right things and to do those right things right.

I do not comment on government policies, but there are three things that are pointed out to the media and maybe they're worth repeating here. Mr Chair, do I have the time? Will you indulge me a little bit?

The Chair: Yes, by all means.

Mr Peters: We are really fostering at the moment good information to the Legislature and good accountability, and there are three areas that we're focusing on:

(1) When the budget is presented, the province needs to know where it actually stands financially to have a good debate on the budget. That's why I'm highlighting this difference between budgeted deficits and the actual deficits.

(2) To help the Legislature to identify and act on those government programs that have proven to be ineffective or inefficient in meeting their legislative goals.

(3) To identify and act on those government programs and services that are the drivers of the deficit, now and in future.

I identified for the media our chapter 3.09, which dealt with long-term care. In that chapter you'll find charts that show that our population will age significantly over the next few years. Standards have to be set as to how many beds per 1,000 or 100,000 of population we ought to have ready, how much it will cost us, how do we meet this need in the most cost-effective manner. So there are drivers out there that will drive the deficit.

We identify clearly that information and tools for decision-making should be better developed and used by legislators.

When you evaluate our reports, there may be some questions that you may want to particularly ask yourselves, and these questions are fairly specific. I'd like to leave those with you and then highlight just a few areas of concern.

Essentially, when the program comes before you, the fundamental questions really are: Can this government program continue as it is? Is it working fine? Is it doing its job? Can we leave it alone?

The second question is: Is there anything in this program that needs to be modified to make it work better and operate better?

The third question is really: Is it so bad or is it so ineffective in meeting the legislative objective that it should be discontinued and that your recommendation will be to discontinue the program? This is on existing programs.

For new programs, particularly in the financial condition that the province is in currently, with total debts now exceeding \$100 billion, really the questions are: Do the benefits, tangible and intangible, outweigh the costs? Secondly: Is it affordable? Does the province have the fiscal flexibility to implement it? Is it sustainable?

I'd like to leave these questions with you and I'd like to highlight two particular areas that I spoke to in my media conference that may be of importance to you.

1030

One of the areas is that in 1987 we audited the legislative estimates review process, and at that time we found—and I give you the nutshell view only—that process to be maligned and ineffective. We did it again in 1995, and we now find, as I told the media, the process is merely ineffective. Why is it ineffective? It's ineffective because the estimates committee reviews the estimates only after about half the year is already gone and more than half the money is spent.

Secondly, it's ineffective because the members on the committee—and this was not our view, but it was the view of three members from each party who served on that committee in the past; we didn't put that into the report, but to you I'd like to relate it—there was a sense of frustration there. They had to spend up to 90 hours to discuss various segments of the estimates, and they knew they couldn't change anything, simply because it was too late in the year, and secondly because if they wanted to change anything, it effectively had to be done through a non-confidence motion in the government, and particularly if you have a majority government, what's the point to bring that forth? So as a result they found that very often the estimates review process ended up in parochial discussion and particularly strong partisanship of trying to score political points rather than making the estimates work better.

So things have to happen there, and our recommendation, based on our review, is two things. Firstly, move the timing of the legislative review process in such a way that the review can indeed make a difference. The second part is, improve the information that is available to the legislators at that time so that it actually can result in a productive review process. So that is really one area that I wanted to highlight for you.

The second area that I wanted to get into is an area where you will have to make a real decision, and that is, there have been three motions passed since I became the Provincial Auditor, which was on January 1, 1993. One motion asked me to pursue a legislated, workable accountability framework. We advocated this framework simply because about over half of government spending, over \$28 billion in 1995—that was the principal reason; there were several others—was turned over to separately governed organizations. Those are the municipalities, those are school boards, those are hospitals, all with a board of directors or even elected representatives on them.

We felt there was very little accountability back to the Legislature at all whether these bodies were actually spending the money for the intended legislative purpose and whether they were doing so cost-effectively; in other words, whether they were achieving value for money. So that was one of the mainstays, a main thrust of why we wanted to take a look and give legislators, not just the bureaucrats—there are some tools that they have, but not very many, and they are very limited, but the Legislature has really virtually no tools, other than anecdotes and stuff like that, to have accountability for these significant sums that are being spent there.

The second area that we got into was that the committee had asked me to pursue better accounting. I think we're on the way there. Progress is being made, and I have high hopes that with the appointment of the Ontario Financial Review Commission—which, incidentally, I fostered and promoted all along, not just with the current government but did also recommend to the previous government—that steps will be taken there.

The third area, though, which is important is that there have been—as I mentioned, the Audit Act that we're acting under was passed in 1977—attempts to amend the Audit Act. One of the areas of particular concern is that for these very organizations that I mentioned before which receive about half our money, my office can only conduct so-called inspection audits. Inspection audits, under the Audit Act, are defined as examinations of accounting records.

The accounting records of these organizations are, I would say, in virtually all cases already audited by accounting firms, so there is no value added by us looking at this. But there would be value added if my office could expand its mandate to take a look at whether value for money is obtained by these organizations. The main thrust of the amendments to the Audit Act was essentially to see, and for you to debate and decide, whether we should take a look at whether these organizations are obtaining value for money, particularly with a view to the \$28 billion annually they spend.

There are 7,000 of these organizations. Certainly, we don't have the resources nor are we going to call for resources to do that, but it will of course greatly influence the work of my office. But that motion is before you, or was made by the predecessor committee that they wanted to hold hearings into this. One of the points that became of interest was whether you should have, for example, universities before you, school boards or

municipalities, and hear their views of how they would view it if the Provincial Auditor had this right of access to other records. So it's not driving.

Maybe anecdotally, if I have the time, I will just tell you essentially how it reared its head before this committee. In 1993 we reported that the accountability framework for delivering special education for students with special needs at school boards was essentially so impaired that, although the government had under the Education Act the responsibility to ensure that special education was provided, there was no way to determine that school boards were actually using wisely the funds turned over to them. At that time, about \$285 per student was given by the province to each school board to deal with students with special needs.

When this issue came before this committee, an immediate turnaround was to ask my office to conduct audits in school boards that they specified, to see whether they were doing a good job. I had to say to the committee, "Under my act, I can't do it, because I'm only allowed to look at accounting records, so there's no way I can really assess whether special education funds are spent for the legislatively intended purpose and whether they're spent cost-effectively." The upshot of, in a way, the frustration of the committee at that point that they couldn't get a further handle on it was that motion that maybe there should be an amendment to the Audit Act so this committee could effectively ask me to carry out those kinds of audits.

That's just a little of the background of where these three motions came from and some of the outstanding issues that I thought I'd bring before you. With that, Mr Chair, I'm ready to entertain any questions you may have.

The Chair: Thank you very much, Mr Peters. Are there any questions that arise from that?

1040

Mr John Hastings (Etobicoke-Rexdale): Mr Peters, do you have any idea of whether in this accountability framework there is any measuring mechanism for figuring out the cost-effectiveness of regulations? When a new statute is produced or an existing one amended and the regulations required to carry out the statute's authority is undertaken, is there anybody in any of these departments who actually looks at the cost-effectiveness of that particular—I can't think of a good example immediately off the top of my head.

Mr Peters: Let me answer this in two ways. First, in my office there is one portfolio that deals with regulatory matters. Again in the 1995 report, for example, we reported on the Ministry of Consumer and Commercial Relations, which is a regulatory authority, and we took a look at how they measure these things. From the ministry point of view, we can look at it.

As to the direct impact of regulation on grant recipients, that would be an area we couldn't look at.

Mr Hastings: That would require an amendment by the government of the Audit Act.

Mr Peters: That would require an amendment to determine that.

Mr Hastings: On another matter, not connected, but in the whole area of cash management, I've noticed around here in my own global budget as an MPP that supply and services of the assembly is in some instances paying a bill, regardless of cost, before the 30 days. That's pretty well standard practice, I always thought, that you pay your bills within 30 days or you pay extra interest. In these instances, they're paying ahead of time, yet I've understood that often in other ministries they aren't paying suppliers of services or products for maybe up to 90 days.

Do you have any authority or do you make any comment as to the irregularity or the inconsistency in terms of this kind of practice of cash management, some paying way early and not getting advantage of the interest on the money, others paying long after it was due under standard payment practice?

Mr Peters: It's a very good point and a very interesting point, certainly one that we foster, sound cash management, in all our audits. Why it would not come forward to this committee most likely would be because matters of that nature are largely dealt with in management letters which we send to the management of the particular item.

The one area where I have some additional difficulty is where there are actually MPPs and expenditures, because in that regard, the members are in the driver's seat, not us.

Mr Hastings: How effective is your management letter to any given branch or ministry commenting on this issue? Years later, they're still doing it the same way as before you issued your management commentary letter.

Mr Peters: If I may separate it, if it happens in a ministry we will certainly comment, and if it isn't fixed it will percolate up into the annual report and will be public, and you will be able to deal with it if they don't do it right.

Mr Hastings: Do they ever get it right after that?

Mr Peters: Oh, they do, yes. We have a fairly good record that when we make recommendations they will be implemented.

Mr Skarica: I'm a little confused. Right now, if a million dollars goes to a program, are you able to look into whether there's value for money? What are your restrictions at present?

Mr Peters: If it is a ministry program, there are no restrictions. The only part where we are slightly restricted is this: We can look fully at all aspects of economy and efficiency, but as far as the effectiveness, the effect achieved, we can only determine and report on whether the ministry itself measures and reports and whether those measurements and that reporting is insufficient.

Mr Skarica: But when that million dollars goes to, say, a school board who then spends it, what are your limitations there? Can you go into the value-for-money audit or no?

Mr Peters: No, we can't. Whether the school board spends it with due regard for efficiency and economy or whether they're ineffective in the way they are spending,

whether they have measures in place to see if they do it effectively, we can't look at.

Mr Skarica: So what controls are there, if any, on an agency we give money to?

Mr Peters: On the school board level? Is that your question?

Mr Skarica: Any agency, for that matter, say WCB.

Mr Peters: WCB, in its particular case, because the audit happens under our direction, we certainly foster that value-for-money audits are being conducted within that agency. But that's where we have to stop. They are responsible for carrying that out.

On the agencies generally, where the auditors are is that we normally assume that our responsibilities include conducting value-for-money audits.

Mr Gilles Pouliot (Lake Nipigon): I'm happy to be here on the committee. I've sat on this committee; in fact, I was the Vice-Chair. I know the people here, our friends, are concerned about money. I mean, they perspire, they breathe the money. In view of that, because times are quite difficult, Mr Chair, I was to introduce a motion asking that you, sir, and the Vice-Chair waive their stipend. I didn't do it when I was Vice-Chair, because ideologically I'm not on the same binge or bender as those people there. I'm happy to be back, but since you're with the opposition I think we can dispense. We know you need some dineros to stay alive.

Value for money, to the Provincial Auditor, I have some difficulty articulating, and maybe I will need your help. Over the years, there has been a bit of a transition, in that the focus was at one time just as much, if not more, on financial audit, and then you moved to a value-for-money mandate. I understand that in terms of the financial audit there's been some contracting out, if you wish. Other people were left to do that.

What is our capacity as a committee? That's my question. What jurisdiction do we have to direct you to conduct a specific audit? For instance, if we hear that there's a swindler on the loose—we don't know that, but we can see that there is a relation with a ministry and we become suspicious that a bandit might be operating. Do we have the capacity to say, "Oh, oh. I heard it said, and I'm going to go to public accounts and ask Mr Peters—we're going to have enough votes, our friends, for we want to know the truth—to go and conduct an audit"? How much capacity do we have to direct the Provincial Auditor to conduct an audit? Could you give us one or two examples?

Mr Peters: You have the right to ask that of my office under section 17 of the Audit Act. That has to happen by a resolution of this committee, by a motion and resolution of this committee, and then we do that. That is one way. That's for this committee to do, and that is specific to your question.

We are currently conducting, in fact, under section 17, as asked by this committee—the latest one we did, I believe, was one on the central collection service. It was of concern to this committee whether the information turned over to the central collection service of the government was adequate for them to do their job and

collect the moneys due to the government. That is one example.

Others are that recently we did the construction of the Workers' Compensation Board headquarters down on Simcoe Place. That was a committee resolution, incidentally, which the committee—

Mr Pouliot: I liked your first example, and it will suffice. Thank you very kindly.

Mr Agostino: Can we talk a bit more about the second one?

Mr Peters: Those are two of the major ones that come to my mind that we have conducted recently. We also under that section, incidentally, can take assignments, as I mentioned before, from ministers or from the assembly as a whole.

Mr Carr: Auditor, it's good to see you again.

I think it's a bit of an understatement to say there will be profound changes in this province over the next little while. I don't even think the members in this room, even some of us who agree and support the major change we call for, fully comprehend what's going to happen over the next few years. I think that's a good thing that's driven by the fiscal realities.

Knowing that, what role would you like to play? What twiggled this for me is that you're talking about the audits of some of these organizations, which I can tell you a year from now probably won't be around, almost absolutely. We're preparing as a committee to look at some of these things, and the changes are happening so quickly that some of the things we're preparing to audit as institutions won't be around.

1050

What role do you see playing in the changes? If you could tell the government, "This is what I would like to do," using your full office and your expertise and, as an extension of that, us as this committee, what role do you see in these changes, if any? How do you see it structured so that when the changes come about you and through this committee as well can have some input in some of the most profound changes that I see, without being dramatic, that this province has ever seen in its history? How do you see your role in all this?

Mr Peters: In a nutshell, my role is really to act as a catalyst to this committee for improved government operations and to streamline things.

The decision as to how to reduce the deficit, which seems to be the order of the day, and eventually reduce it to such an extent that one actually could reduce the debt burden of the province, is really more in the hands of the politicians. It's a more political agenda which we are staying out of. But we are in the administrative area and how to do it. We certainly get into it.

Already in the 1995 report we have two straightforward examples we are pointing out, talking about these organizations that you're in, the very administratively cumbersome situation, for example—and I don't want to go too long—but we have a little chart in our report where we point out that previously, for example, one municipality had agreed with the provincial government

to get a 50% subsidy on its drinking water plant and received a grant from municipal affairs in the amount.

Now, under the current setup—this was in effect up to the end of the last fiscal year and into the current fiscal year—it involved numerous loan agreements. It involved a loan agreement between the consolidated revenue fund with the Ontario Clean Water Agency, which in turn had to make a financial arrangement with the regional municipality that the municipality was in, which in turn had to make a financial arrangement with the municipality which actually operated the drinking water plant.

We had money flowing through loops and loops and loops before what previously was a straightforward grant and repayment, and it was never to be repaid. The agreement was that the government would give that kind of grant to it. Now, all of sudden, we have loan agreements, and when it had to be repaid what happened is that the government had to give the money to the municipality at the bottom and then they paid it back to the region and then they paid it back to OCWA. They didn't actually pay it back, but all the loan agreements and all the books had to be adjusted and everything.

I use that as an example. That's where we are the most help: to point out these situations and say, "Look, streamline it, do the right thing, operate it the best way possible."

Really, we think that through this committee, with the help of this committee, in the items that we are pointing out, we can help streamline operations, help identify situations where they are not economical, where they're not efficient, and really the most important point of all is—and this is a major concern—ministries do not know, and therefore you don't know, which programs operating right now are really effective; and which programs, in order to ensure their effectiveness, either can be left alone or they need to be modified or maybe they need to be cancelled altogether.

It's that sort of assessment that we want to ensure is brought before you, so that these far-reaching decisions that you are referring to can be made prudently with the best information available at the time so that the right things are reduced and resources are placed where they should be placed.

Mr Carr: I appreciate that. What I was getting at more is the structure. I think that what's going to happen is that restructuring is going to be taking place because the tap's going to get turned off in terms of revenue. That's going to force all the things that you've been doing for a few years and all the inefficiencies are going to happen because each of these groups, when the money gets cut, have to look at their own programs. That, in my mind, is going to be better than all the auditors in the world, with all due respect.

Having said that, what I'm thinking about is the process for you to make recommendations. I noticed in one of the clippings reports here when they talked about, just as an example, the super city in Toronto. It said that the auditor thought it was a good idea. Just in one clip.

Is that how you see your role as the government comes forward with an idea, you "through the media" do it? The reason I'm asking this is, the way I see it working—and I understand that the political decisions have to be made

by the politicians; that's what we get paid for and fired for four years later if we don't do a good job; but in terms of the structure, the management structure of the way this province should be managed is very, very complicated.

I've been around here four and half years. I kidded about being a goaltender; I also have a business background. To study and understand how we operate, if you put this province together again and did it this way with the unclear lines of authority and responsibility, it would be the worst thing. You'd go to the U of T and they'd say this is how not to do it.

So what I'm say, with all the dynamics that are happening, is it possible that you, in your good, objective office, which is non-partisan and objective, is there any way that you would like to formalize for the government the process and the structure you would like to see as we—I hate to put it in simple terms. What we're doing is we're downsizing significantly. I appreciate what you're saying, that you're going to do these audits and say, "Here are the problems," and then we run around and try to fix them. But it's a broad system.

Is there anything you could present to the government, and it probably would be a major task, about this is the way some of the operations should take place, having done all the forensic analysis that you do, here is the way the province should be structured, as an independent advice to the government? At the end of the day the government and all of us will have to vote on different things and be elected on that. But do you see that as your role or do you see that as overstepping your role? Because I personally think it would be helpful.

I see, as I'm sitting here as a government member, fundamental changes happening very quickly. I'll say right at the outset I agree 100% we need major change. My big concern is that the players who are making those decisions are a small group of people, even excluding us in the Legislature. What I would like to see is this committee, through this committee—I mean, I could run around and make my suggestions to individuals, but I think as an elected representative of this committee I may be able to help in the restructuring of what we're going to do. But I don't want to get down that road and do that if in fact you as the auditor said, "That isn't my role and we shouldn't be doing it."

So I'm throwing it out and I don't even know if you need to think of a decision today. Some of the other members can think about how they see the role over the next little while. But it may be helpful for you and your good office to take a look at the structure of the way we operate here in the province of Ontario and make some recommendations. But one quick point, and then I'll let you answer.

If you're going to do that, we have to do it very quickly, because the November economic statement is going to force a lot of these changes very, very quickly. Again, that is good. But you may want to think about what role you can play, if any, and we as the committee could participate in that. I'll throw it open to you now. It's sort of a difficult question and I don't know if I've been exactly really clear in what I'm proposing for you

to do. But if you could just comment now and even in the future think about your role, because I think the good office of the auditor can be used and I think it would be a waste if it's used in replying, which is still valid, in the press that, yes, this is a good thing or a bad thing when we do some of the restructuring, like the municipalities. But I would like to formalize it a little bit better and I don't know if that could be done. But I would like to suggest that you and your good office and your people think about that and maybe at some point through the Chair let us know and see if it's something that the auditor would be interested in doing.

Mr Peters: There are two fundamental motions on the table which really go to the heart of the very matter you have raised and that we have recommended. One is really the establishment of a legislative accountability framework; and the second one is whether or not my office—currently, when you look at the public accounts, 70% of the province's money, \$40 billion, is paid by way of transfer payments—that's where the big bucks are—and 9.3% is paid in salary and benefits to public servants; less than 10%, in other words. But the big bucks are definitely going out in transfer payments, and the next item on that is interest, of course, which is what the game plan is all about.

The overall recommendation that I continually have made and where I continually hope to be of help is really that the information on which these decisions are made be the best information you can get, and that the accountability of the people who have to implement them be proper and go actually to the Legislature; that it does not remain within the realm of the bureaucracy, but that through this committee, you have both the information and the tools to deal appropriately with what is happening out there. What is the effect? Are we cutting the right thing? Do we make that decision based on—I don't know whether you were here when I raised the really fundamental questions. Do we know enough about this particular program or this particular spending pattern, whether or not we can carry it on, whether we need to change it or maybe we shouldn't spend any money in that area at all?

1100

What I continue to foster and I hope this committee will foster is that that information will come forward so that the decisions essentially come out as credible decisions, not just as—I don't know whether to say that, but not to get into the realm of slashing and burning, but as opposed to getting into spending. Even if the budget is balanced, this province will spend around \$45 billion a year and that balance has to be spent wisely and the Legislature has to know if that is done wisely.

Mr Carr: Good point. Just very quickly, and I'll sum up and let the others question because I don't want to dominate.

But I see this role working that way, and I say to all the members on the committee that this committee, I hope, will work in that way. We'll have our partisan fun in the House and I, as some of the members who have been here know, love to have that occasionally too, although I've been pretty good this term. I promised my

wife I'd be good and I've kept to it. But this committee can really—

Interjection.

Mr Carr: That doesn't stop me being as radical as I've always been, unfortunately.

But what we can do, I think, is play a constructive role and work together. So just in conclusion, I hope we'll do that. We'll have a little bit of fun on this committee, but there are some very serious challenges.

I firmly believe this committee can participate in some way and I think if we do it as best we can, because we're all going to be partisan, but I think there are a lot of things that we'll find that we can agree on and work in the spirit of cooperation. There will be occasions when some of the things that we look at will need to be criticized. I've been around this place long enough to know that, but I think and I hope that this committee—and that's one of the reasons when they asked, "What committee do you want to come on?" there are so many that are partisan and I've been quite frankly sick of it over the last four and a half years, running around doing it—that this one may be one where we can play a constructive role.

So good luck to all of us and thank you very much. I know you've done hard work on behalf of the people of the province for many years and we wish you well in your endeavours.

The Chair: Thank you, Mr Carr. Maybe I'll just take the opportunity to let committee members know how I propose to deal with questions and comments, and that is in order, in rotation.

Just so you know, now I have on my list here—Mr Gilchrist and Mr Beaubien intend to ask questions and so does Mr Agostino. Since we've just completed with a government question, I'm going to proceed now to the official opposition: Mr Agostino. Of course, if you wish to direct me otherwise, I'm quite open to that.

Mr Gilchrist: Mr Chairman, just on a point of order: It was my understanding that those procedural matters are normally dealt with at the subcommittee level, but for the purposes of this meeting I have no problem continuing on that.

The Chair: Thank you. Mr Agostino.

Mr Agostino: Mr Chair, just a brief point on what Mr Carr was saying. I think there is some merit to the type of advice we receive from the auditor. From my own experiences and you members who have been here for a period of time can probably attest to it better here, I think it's always very good advice and I generally find that the role of the auditor is to be of course independent of any government policy or government decisions and basically offer the Legislature the best advice possible on how to best spend money and how to streamline the processes it may be duplicating. But I guess there's a fine line, and I think that's maybe the question that Mr Peters is going to look at in his own mind as well, between giving that type of advice or directly commenting on government policy. I'm not sure if that was what Mr Carr was getting at. I think the auditor obviously has got all of the flexibility to say, "No, this process can be done better this way," or

"You can run this program better this way," but I'm not sure if it's really the role of the auditor to say, "This program should be eliminated," because as legislators we have to look at that and we have to look at the impact, not necessarily just the dollars. There may be programs that financially may not make a lot of sense and that we all may say: "Look. They're important enough that we want to look at it or we want to keep because of whatever it is that that program is doing or is necessary in the community."

So I think that there is a line there and I think it would put the auditor in a very difficult situation if he is asked to comment on government policy or a government program that may be slashed or may be cut or may be changed and that sort of thing, and I guess that's the only caution I would throw out to you. I think the advice is valuable, but I don't think it's the auditor's role to basically give direction on government policy because of the impact that we as politicians are responsible for the decisions we make and ultimately I think his role is to be independent and to basically look at the overall picture.

Mr Peters: Fair enough. Let's be very clear. I do not comment on government policy. These questions that are raised with you are your questions to answer, not mine. I can make recommendations to you where things are not going right. You have the privilege of taking the action on it. In fact, it's one of the major additions this committee brings to it, because I cannot, do not and do not want to comment on policy, but this committee may decide to do so and that's within your purview, but not mine at all.

The Chair: Given the substance of his preliminary comments last time around, the Chair with some reluctance recognizes Mr Pouliot.

Mr Pouliot: Right, you do and you don't, sir. We were the government. I remember very vividly the two sets of books that were floated out there. I remember very vividly our Deputy Premier, the Minister of Finance—and the situation parallels; we've had a change of government; so be it. Credibility was put in question because in a constitutional monarchy it's confrontational at times; so be it again.

People were waving credibility documents, "Who are we to believe, you the politician, or the pedestal, the Provincial Auditor, the sanctity of it?" I would expect the same thing if I were—I know it's a difficult call because when you hint or proclaim—go further than hinting—that there are two sets of books, then it becomes the quality of character in the political arena. It's a blood sport we're in, and you have that glass house where people cannot throw things because you are not impacted. The serf, the pleb, can be disregarded. But in politics here it comes back to haunt people.

This should be—should be—by its mandate the least political of all committees, and we all mean that, that we have enough on our plate, that we all intend the same way. The thing is that it might be the least of all, but it still becomes political. That's the kind of criticism I would wish the committee to be shielded from. I don't see it as a political role in the least. Politicians will make it that way because they wait for that book and the lockup and they see, did somebody send five shirts to the

dry-cleaner on a trip and forget to deduct it from his paycheque? Because we're like crows; if it shines we'll go at it.

The larger lines, the value for money, not the role of an inquisitor, saying: "What is going on? Oh, we got him this time. We got him big time." If he goes on a trip, and I hope we do travel, and two single malt scotches were brought to his room, then he put the bill in and he didn't pay from his own pocket, I don't wish that to happen. Are the taxpayers getting value for money? We can all tell you where to look but we can't do so with passion.

I had four ministries, sir. It's always not you, not me, but the fellow behind the tree. There are so many people in the communications department. What do they do, those people? "Oh, I work very hard." Well, I don't know what they do and I'm a poor judge of what they do, so I'll leave it at that. I say this by way of a parallel, the convenience of dumping on the civil service. Those people don't have a voice, but they're not numbers in a book or a face.

I want to see an advance agenda, all this to save doubt and if possible, that we can draft together what it is we are going to be looking at when we meet the next time and the next time and the next time, long term, short term, with the understanding that there will be some variance from time to time, that things will happen and we won't be able to stick to it. But I would like to have our very reduced staff, our constituency staff, look at it and say, "Okay, this is what you'll look at," and to be given the documents that we need to make the committee work.

Please, personally, I don't want this to turn into a political animal. I think you have been, and you're to be commended, able to avoid—because especially the opposition, what an opportunity when you have value for money. Rejoice, for the last government, that's your last chance. People will go and look at it every step and it becomes political. I want to avoid that by mandate, by dossier, not to have you go and investigate a can of worms or bag of snakes that's about to explode, because we know there's a lot of political mileage for us to do that under the guise of value for money. I won't be attempting that. I will resist that. It's too good to be true. There's probably something in it that we shouldn't be looking at. Let's stick to the mandate.

1110

M. Peters : Je voudrais constater très clairement que mon bureau n'a jamais mentionné deux livres de comptabilité dans le gouvernement.

M. Pouliot : C'est la perception politique, Monsieur. C'est ça.

M. Peters : C'est exact. J'ai toujours mentionné que la province a seulement un «set» de livres, et c'est le livre dont je donne mon opinion. La difficulté qui existe maintenant, c'est qu'il y a une méthode pour comptabiliser le budget avec une vue des réalités financières qui est très différente des vues exprimées dans le livre de la province. Ça existe, mais à ce moment-là, et c'est un problème —

The Chair: Mr Peters, excuse me for one moment. Given that there's no translation service available today, I wonder if you might—

Mr Peters: What I have said is that we have always made it clear that there is only one set of books in the province and that is the one on which I give my audit opinion. The difficulty that arose, when the province adopted new accounting rules, was that these accounting rules were not adopted in the budget. Even in the 1995 accounts, you will find a schedule that will show in the public accounts a statement that says, "Deficit on the budgetary basis of accounting: \$8 billion." But the real budget on the financial statements was \$10.1 billion.

Mr Pouliot: Go to other provinces and see how it's done. I mean we've had treasury—I don't want to get into this. It's kind of a contest, but the perception is out there, and we suffered greatly, but that's okay. We're on this side now.

Mr Peters: That's fair enough. But this was not done in isolation or this was not done with a sense of "gotcha." I've pleaded since the fall of 1993 with all the powers there are to get this situation fixed up. Anyway, that is the one thing. I stay out of politics but I have to deal with facts, and it is very uncomfortable for an auditor to have to give an audit opinion on a deficit that is vastly different, that is this year by \$2.1 billion different than the one that was debated by the Legislature when the budget was presented. That is the difficulty. All provinces are moving towards this and they're moving with good speed.

We are definitely apolitical and we try our level best to help anybody in the Legislature. We are apolitical to ensure that they have the best information to make decisions and that the best accountability framework is in place that can be had, and that decisions are based on good information. That is the basic, firm rule of my office.

Mr Gilchrist: Certainly, as a new member of this committee, I'm grateful for your taking the time to give us the background review and your candour in outlining the terms of reference of your office and how you see operating, in concert with this committee, over the term of this government.

Two things come to mind from your comments and I'd be grateful for your feedback on both of them. First off, I'm grateful that we've heard from all three parties and from yourself a recognition that value for money should be the criterion that drives everything we do, and presumably the bulk of your recommendations in your oversight.

I'm curious to know to what stage any discussions about revisions to the Audit Act that would have allowed you to embrace all of our transfer partners had proceeded, and if it hadn't proceeded to the point where draft legislation had come before this committee or had been debated in the House, I'm wondering whether you have had the opportunity to consider yourself the sort of amendments that would be appropriate to allow you that facility. I doubt very much that anyone in this Legislature would disagree that we want to know how our dollars that we're taking the heat collecting are being spent by our transfer partners.

My first question to you is, how far along in stage has that gone? Obviously, not far enough. How do we take it to a conclusion, in your view?

Mr Peters: It went to the point of having a resolution passed by this committee to have hearings on the subject. In preparation for those hearings, we presented to the committee a proposed wording of a redefinition of "inspection audit" essentially. But that was only done by letter to this committee and had not advanced any further than that.

Mr Gilchrist: I wonder, if it's not inappropriate, if you could send copies of that letter to the committee members or such other background information as you think might assist us in putting our minds to how we could craft either a resolution or make suggestions directly to the relevant minister that legislation be brought forward. If you could get that background information, I'd be grateful.

The other thing I thought was a bit of an anomaly in your comments was discussion about the tardiness of the estimates process, yet I look at the bulk of your report—and I mean it in the physical sense, the bulk—and the fact that it comes out annually.

Given that the same rules would appear to apply if there are programs or ministries or specific individuals who are not giving us value for money, and given that your audits are ongoing throughout the year, I'm wondering whether it would be more appropriate, whether or not you come up with a conclusive document at the end of every year, to come out with more frequent submissions to this committee to allow us to digest eight or 10 or 12 crown corporations or ministry audits every quarter, and both allow us to stagger our workload and, most importantly, deal with issues far faster than if we wait for an annual report that comes out conceivably 12 or 13 months after you've actually done a specific audit.

Mr Peters: That's a very interesting point. It certainly could be built in, if it's the wish of the committee, to amend the Audit Act to do it. Presently I report—under section 12, there's a stipulation. In fact, that's why I changed the audit year that we report on, which differs from the fiscal year. As you know, the fiscal year of the government is April 1 to March 31. The audit year runs, at the present time, from October 1 to September 30. This is done for the specific reason that the act states I shall not table my report before the public accounts are tabled, and traditionally they are tabled around September 30. This year that was October 2; it was when there was the next working day. So I should not table my report before the Legislature has the public accounts and I cannot table any later than December 31.

That is where it currently stands. If there are special issues, I can bring them to attention.

But certainly there have been different approaches taken by legislative auditors to the frequent reporting. The federal Auditor General had an amendment to the act made under which the federal Auditor General now reports more frequently during the year. If that is the wish of the committee, we would be quite willing to discuss this, as it's something that is of concern to us, and it's something we would certainly adapt to very readily. But it will require a further amendment to the Audit Act in that particular direction.

There are other small amendments that could be made, for example, that I can think of. Let me just very quickly point one out. Under the Audit Act itself, I'm supposed to audit and report annually, give my audit opinion, on the books as put together by the consolidated revenue fund. Currently we prepare what are called summary financial statements, and they include major other entities that have been created by the government that are under legislative control. We consolidate them.

1120

Theoretically, there's a minor amendment needed so that I can give my opinion now on this whole set of accounts. I do it already anyway. It's not that I'm breaking the law, necessarily, but it is just a better set of financial statements for the province that I'm reporting on. In fact, that creates some of the differences that Mr Pouliot was referring to in his comments, because under the Capital Investment Plan Act certain activities of the government were moved into some of these corporations. Their budget was therefore not included in the budget of the province but was included in the books of the province. That's where other differences arose.

There are a number of issues one may wish to add in, the key issue being the one you first referred to, which is whether or not I should have the right to do value-for-money audits on transfer payment recipients or grant recipients, where they are separately governed.

I do not want to audit the affairs of a medical office of a doctor who receives OHIP or of a welfare recipient under GWA or under the Family Benefits Acts, definitely. That's about \$10 billion of the law, so that's why I'm coming down from 40 to 28. But the 28 are separately governed organizations with a separate board of directors or even elected officials. That's going to be another delicate issue, whether school board trustees, for example, will be willing to have the Provincial Auditor look over their shoulder although they are separately elected. That's why the idea of hearings, introduced by the committee, I don't consider a bad one.

Mr Agostino: I think it would be very good if there is a mechanism. I certainly think to have the reports come more often and maybe more timely would probably be useful in saving some money or introduce efficiencies, rather than wait till the next year and then implementation. If we can cut six months or nine months out of that process, I think it benefits everyone.

Along the same line, when you through your audit flag that there is a problem—one example that comes to my mind is the issue of the allowance given to disabled individuals in group homes, those kinds of settings. One of the things that was pointed out is that staff has sometimes used that money for other things that are not necessarily for the clients' purpose. When your audit process notices that, or that an elevating device has not been inspected properly, those kinds of things, does anything happen with that information at that point? Does it get referred to the appropriate ministries or the appropriate staff to deal with? Or does it just wait until you do your audit report and then action is taken from that? What do you do with that information when you become aware of it? Say it's six months or eight months before

a provincial audit report and you notice there's a particular problem in this type of program or area. Does anything happen with that?

Mr Peters: Oh, yes, it happens. Actually, what we do in all of these circumstances is that the ministry responsible is immediately made aware of our findings. To give you a timetable, the 1995 annual report is possibly a good example. Essentially, the ministries involved knew of all our findings by the late spring of 1995. What I'm driving at is that we want to fix the problem and not fix the blame, and there's nothing to be gained by playing a game of gotcha in front of this committee.

What I'm hoping for, even in the 1995 report, if you decide to deal with any chapters, is that the deputy who comes before you can actually say: "Yes, we were advised of this problem. We reacted to it. I am now able to report to the committee that I've fixed it. This is what I'm doing about it." It's a constructive process as opposed to be a fixing the blame.

The problem gets fixed pretty well right way. With the elevators, they're working as hard as they can to get this risk assessment system in to ensure the safety of the—I wouldn't be surprised if it's in right now.

Mr Agostino: To follow up on the same point, would that not be put in the report? Say that nine months ago there was a particular problem identified in your report. Since that time, obviously, it's been pointed out to the ministry, they have gone ahead and put the mechanism in place and fixed the problem. Would that kind of information be reported as well in your report, along with the fact that this problem was identified, and then, "Since that time, steps have been taken to correct the problem. I'm satisfied it's working properly now"? Is that kind of information included in your reports as well when that happens?

Mr Peters: With every recommendation in this report, there's what we call a ministry response. That ministry response is essentially the ministry outlining either what action it has already taken to fix it or a commitment to fix the problem. I'm very pleased to report that in virtually 100% of the cases, that's what happens: either they have taken the action to fix it or they have made a commitment to fix it. That is indicated in every single one of the recommendations. That's the new style of reporting.

Mr Agostino: Often what you'll find is that we hear about the problem, but you rarely does the information come out in the media reports that steps have been taken to correct that thing, and the public gets the perception that it's still happening while in effect it may have been corrected and fixed already.

Mr Peters: Which we are indicating. The cornerstone of this report is that we said, "We are pleased to report that action has already been taken," or "They have committed to take action."

Take, for example, the elevators. If we come to this committee too early, this is a governance committee as opposed to a management committee. What we would like to do is to give management a chance to fix the problem before the legislators get involved in it. That is

really the approach taken. If you as a committee identify a problem that you would like us to look into, that's a different kettle of fish, but on the ones we pick for audit, the hope is that everything is fixed or a commitment is made to fix it before it gets to our monitoring body.

Mr Skarica: I'm new to this game, and as a first-timer, one observation I've made that gets me down at times is the fact that everything becomes so partisan. When you go to the House, if the Conservatives say something is black, the NDP immediately say it's white and the Liberals say it's grey.

I had to read some committee reports on OTAB, because I'm involved in a review of it, and after a while it became totally obvious. You wouldn't even have to read the name of the person, you could just block it out, and you could tell from reading the speech the person made whether he was Liberal, PC or NDP. The whole thing became—and I read hundreds of these pages—a total waste of time, because people were going in there for partisan purposes and just to make speeches.

One thing I'm hopeful of, and I'm putting this to the other members, is that we all have an interest in value for money. I don't think that's a partisan thing at all. I'm hoping that we all will work together and not get into those partisanship type of speeches which virtually render the committee a waste of time eventually. That was the impression I got from reading these Hansard reports.

The Chair: Your comments are very well taken.

Mr Crozier: I have been a small business person for some 22 years; as I mentioned earlier, I am an accountant by profession. I echo those comments very strongly. When I joined this committee in early 1994, those same thoughts were on my mind. I agree with you. You could see where in many cases—not all, but in many cases—it turned into a partisan thing.

As you get further on in your mandate, part of the reason is that it's your government, your management team, and suddenly, like any person under normal circumstances, you go a bit on the defensive. Yet I don't think that's the real intent of this committee or of the Provincial Auditor. It is, as you have said, to spend our money, each of our dollars, more wisely.

Since we have a fresh start, since you are at the beginning of your mandate, I hope we can do that. I think this is one of the few committees that can operate in a very non-partisan way for the benefit of the whole province, and we have an independent person in the Provincial Auditor to provide us with that kind of direction.

I go on record as saying, may each of us remind the other when we get into that other position that we should back off and do it for the best of the province.

Mr Pouliot: I want to echo briefly what has been said. It seems that we have unanimity in terms of style. Mr Chair, I promise not to sin again, and hopefully nothing will happen that will force me to become a recidivist, to go back to my sinful ways. We're all clear in intent that we're going to try very, very hard, but sometimes there are human frailties, and your qualities are not legion and your faults are many, many, and what the heck, you can't resist. We'll try very hard.

Mr Hastings: I want to comment briefly on a point in Mr Peters's remarks to the media yesterday, and I hope he's doing something about this. On the last page, dealing with out-sourcing of the computer inventory program, you make a comment that it might be useful to out-source payroll. I'm wondering whether your office is considering developing some kind of standard contract for out-sourcing so that when this kind of approach is taken, the people carrying out the program have certain specific criteria as to what to look for more than just the ordinary tendering of such a proposal for such an activity.

I'm wondering whether it's your office's responsibility to develop a document of standards, or whatever you would call it, for out-sourcing activities, so we would have more policy compliance on avoiding this kind of situation, where they spent the money but there wasn't very much of value found in it, or they didn't follow through on what they wanted in the first place.

Mr Peters: Actually, the process you describe is more a management process. We can help outline the criteria that maybe should be in there. However, I should mention to you two things about that. First, it was somewhat atypical, and we agree on that. The second is that actually there are good guidelines in place, issued by the Management Board Secretariat, about how to do this and how to work with out-sourcing. Somehow, this one just hit the thing the wrong way. But they are there.

It would not be our role to give those guidelines. We certainly let ministries know what criteria we would audit against when we examine them.

Mr Hastings: Then if there is that document, why wasn't it followed?

Mr Peters: To be frank with you on that one, it is exactly the kind of question I hope this committee might ask if it wants to follow up on that situation and get a good answer to that question.

The Chair: If there are no further questions or comments at this time, it now falls to our committee to select the first piece of business we'll be dealing with. I'm proposing that our subcommittee meet to that end on Tuesday of next week, immediately after question period, together with Mr Peters, to give some consideration to that. I also want to draw to our committee's attention that this committee has not yet, to my understanding, addressed the contents of the equivalent 1994 report, so there is all kinds of material for us to work with.

Mr Crozier: I'd like to get my two cents in to the subcommittee. I hope we pick up where the last committee left off and look closely at the Audit Act itself. It's a big job and we should get at it as soon as we can.

The Chair: Again, I propose that the subcommittee meet on Tuesday, November 21, immediately after question period, in the opposition lobby library—you'll be quite welcome there, Steve, don't worry—together with Mr Peters. That's where they've met traditionally in the past and it seems to be very convenient.

That's agreeable to all members? Seeing no further business for the day, the committee stands adjourned until 10 am next Thursday.

The committee adjourned at 1135.

CONTENTS

Thursday 16 November 1995

Election of Chair	P-1
Election of Vice-Chair	P-1
Appointment of subcommittee	P-1
Briefing	P-2

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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 - *Fox, Gary (Prince Edward-Lennox-South Hastings / Prince Edward-Lennox-Hastings-Sud PC)
 - *Gilchrist, Steve (Scarborough East / -Est PC)
 - *Hastings, John (Etobicoke-Rexdale PC)
 - *Martel, Shelley (Sudbury East / -Est ND)
 - *Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)
 - *Skarica, Toni (Wentworth North / -Nord PC)
 - *Vankoughnet, Bill (Frontenac-Addington PC)

**In attendance / présents*

Also taking part / Autres participants et participantes: Peters, Erik, Provincial Auditor

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

CA20N
XC21
-P72



P-2

P-2

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First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 23 November 1995

Journal des débats (Hansard)

Jeudi 23 novembre 1995

**Standing committee on
public accounts**

1995 annual report,
Provincial Auditor

**Comité permanent des
comptes publics**

Rapport annuel 1994
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 23 November 1995

Jeudi 23 novembre 1995

The committee met at 1005 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr Dalton McGuinty): I think committee members will have a copy of the agenda before them, and the first matter for our consideration is consideration of the report of the subcommittee. Your subcommittee met on Tuesday of this week after question period. A report has been placed before you, and I'm just going to read that into the record:

"Your subcommittee agreed to recommend that the committee's initial schedule of hearings consist of reviews of sections 3.07 (retail sales tax) and 3.18 (Ontario Board of Parole) of the 1995 annual report of the Provincial Auditor.

"The subcommittee agreed to recommend that the committee commence its review of section 3.07 (retail sales tax) at today's meeting, and to request the Deputy Minister of Finance to appear before the committee at a subsequent meeting of the committee following a briefing on section 3.07 by the research officer and the Provincial Auditor."

What I'm going to require now is a motion that we adopt the report of the subcommittee. Mr Boushy, thank you, a motion. The seconder for the motion? Mr—I'm sorry, could you—

Mr Steve Gilchrist (Scarborough East): Gilchrist.

The Chair: Sorry, I haven't got the names down yet. That'll come with time.

All in favour that we adopt the report of the subcommittee? The motion is carried.

At this point in time we can also have an opportunity for discussion. If members have any other items they would like our committee to consider apart from those two that have been raised, if they want to put those on the record now, please feel free to do so.

Mr Mike Colle (Oakwood): I have two areas I'd like to have this committee perhaps follow up on as a result of the auditor's report. The first area which the Provincial Auditor touched upon was the accountability and cost-effectiveness of municipal government, and especially I think it's very appropriate considering the massive changes proposed in the Municipal Act and also the changes of the governance structure in the greater Toronto area. I would like to put that on as a possible area of further study by this committee.

And, if I may, a second area is the area of the Ministry of Transportation, 3.19, to look at the overall issue of quality and standards of our provincial roads. Especially intriguing is the challenge of the fact that 60% of our

roads in Ontario are substandard. I think it's an area when we can maybe be of some help in eliminating this backlog of retrofitting and re-engineering our roads and how to best do it for the biggest return on the dollar invested. It's 3.14 and 3.19.

Mr Gilles Pouliot (Lake Nipigon): Good morning, Chair. In terms of the rotation, I would like, at your convenience, of course, to address both the municipal spending—and I say this as an answer. I'm not offering that we do anything, but we have our own philosophy regarding both municipal spending and also the second item that was read under the auspices of the last Provincial Auditor's report, that of roads. So I'm in your hands. If you will recognize me, I will speak briefly on both matters.

The Chair: By all means.

Mr Pouliot: In terms of municipal spending—and I too read with a great deal of interest and some concern—what is evident, what is a departure from yesteryears, if you wish, the reality, in my opinion, is that when you spend less money in the envelope, you also accompany that envelope with another one that tells you that you will have more flexibility. I'm concerned, putting our auditor in the kind of position whereby jurisdictional capacity overtakes what is being done here, what is being examined.

I would seek clarification later on—well, not clarification but exactitude in terms of what should the mandate be. We're getting fewer transfer payments. Except for the statutes, I'm not too aware that the federal government is conducting a value-for-money audit on how the provinces spend money. They just go to the statutes; they don't do that.

I see validity that you're not going to go to—well, why not school boards, boards and commissions? You control the envelope and you give more flexibility. That's what the government of the day says and I think it's right. If you don't send as much money, at least make some overtures that they can spend it—that there's more flexibility. To go at the same time and say, "We want to make sure the municipal taxpayers are getting value for money," I have some reservations on that.

In terms of the roads—and this is please—of the five years in cabinet, three and a half years were spent in the fascinating world of bridges, culverts—not sewer and water; that was another department that's just as fascinating, but in the road system, and you're right, Mr Auditor, with respect. The Ministry of Transportation has a lot of expertise to provide the database.

The roads need to be upgraded. I go back to my younger days in Quebec under the Duplessis regime. Some things change; others—

Mr Colle: The Three Rivers bridges.

Mr Pouliot: That's right. Others are perennials and residuals. Especially if you live outside of Metro Toronto, I can assure you, blacktop pavement—not the base. You can spend an arm and a leg on a bridge, but you get a lot more political value for money if it's a blacktop. Your car feels newer. It's like a clean car; it seems to go better.

Yet I read in the government's position—oh, for it is written—that they will spend \$300 million less, so I'm having—we're both Transportation critics. I can share the appetite. I'm curious, and my colleague is already salivating, as to what you're going to do with \$300 million less when you have so many kilometres of highways and bridges and so many culverts in the province to be reconciled.

I would treat, this—excuse the pun—with a grain of salt, which brings me to winter maintenance. No. That's all I have to say and I thank you. That's the position of our party vis-à-vis those two items.

Mr Gary Carr (Oakville South): I have two items I'd like to take a look at and investigate as well. One would be the Jobs Ontario Community Action program, which doled out a lot of money over the last little while. I think this committee should look at that, as well as non-profit housing. As you know, we spend—what is it now?—upwards of close to a billion dollars on non-profit housing. I think those are two critical areas where the government has spent a tremendous amount of money, and in light of what has happened in the non-profit sector, as you know, the Metropolitan Toronto Housing Authority and the problems associated with that situation, I think we should look at both the Jobs Ontario Community Action programs and the non-profit housing as well. I think that would be a great idea.

Mr Gilchrist: I think it's particularly appropriate, given that both the Liberal and NDP members have indicated an interest in Municipal Affairs, to reiterate what we had discussed in the subcommittee, that perhaps that should be done in the context of changes to the Audit Act that would allow the auditor the ability to do audits to determine municipal accountability, as with other transfer partners as well. So perhaps if time permits after digesting these two, we could include the recommendation of the subcommittee, that that be another key issue to be expanded, to specifically include municipal accountability as relates to section 3.14.

The Chair: Of course, I would encourage members to speak with their representatives on the subcommittee so that the next time we meet to consider additional business they're fully aware of your items of interest.

1995 ANNUAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF FINANCE

The Chair: At this time I'm going to propose that we move to the second item on our agenda, actual consideration of section 3.07 of the 1995 annual report of the

Provincial Auditor. I understand it's the practice at this time to have a briefing, beginning with some comments from our researcher and then followed by some comments from the auditor, Mr Peters. So why don't we begin with Ms Campbell's comments, please.

Ms Elaine Campbell: Members will remember that during last week's organizational meeting, during my presentation I made reference to background reports that are usually prepared for the use of members prior to the commencement of a set of hearings on an individual section of the auditor's annual report. Those reports would summarize the relevant chapter in the report and supplement it with additional background information.

Unfortunately, due to time limitations, it hasn't been possible to prepare an extensive report for today's meeting. Something more substantial will be ready for next week's session. In lieu of a report, though, on section 3.07 of the auditor's 1995 annual report, I have prepared some oral briefing notes for the purposes of context. They cover selected developments over a limited period of time in one jurisdiction.

Those developments are the standing committee on finance and economic affairs's report on the underground economy, recommendations from the Fair Tax Commission and the Ministry of Finance's response to the committee's report. The time period covered is the fall of 1993 to the summer of 1994, and it's only dealing with the province of Ontario; there are no references to the federal government. The memorandum at each of your places is attached to materials that will be relevant to the developments that I'll be touching on.

The standing committee on finance and economic affairs undertook an examination of the underground economy in Ontario in the fall of 1993. The committee's decision was prompted by growing interest on the part of both the provincial and federal governments in the root causes of revenue losses. Committee members also had concerns about negative public perceptions of the tax system, the increasing incidence of reports of deliberate tax evasion and the smuggling and sale of illegal tobacco and beverage alcohol products.

The committee recognized that both legal and illegal activities were hidden or unreported. As a result, it decided that it would examine the issue of tax evasion as opposed to tax avoidance. The two terms were used interchangeably during the testimony of the various witnesses who appeared before committee members as well as in the literature.

Not surprisingly, the committee heard a number of definitions with respect to tax evasion. It decided to consider that provided by the Ministry of Finance and quoted in section 3.07 of the auditor's report:

"...any intentional non-compliance with tax statutes, ranging from late and non-payment of reported tax liabilities at one end of the spectrum to deliberate tax evasion at the other extreme."

The size of the underground economy stimulated a tremendous amount of interest in debate. The committee heard presentations on formal measures from the Ministry of Finance and economists. They spoke of estimates—and

I would stress the word "estimates"—of between 7% and 22% of national GDP, and you must remember these were figures quoted back in 1993.

Presentations were also made by witnesses representing key economic sectors. The committee members recognized the legitimate concerns in all of these sectors but decided to focus on three in its final report, those being construction, particularly home renovations, which they considered to be representative of service-related activities, beverage alcohol and tobacco, those being the most common contraband commodities in the province.

Many witnesses agreed that all taxpayers were victims of the growing underground economy. Their reasons for concern were often activity-specific, but many were of a broader application, specifically economic and social.

The committee could only speculate on what caused the underground economy, but many witnesses cited the economic climate at the time as the major factor contributing to its development, being the then recession, unemployment, and to a lesser extent the changing dynamics in the formal and informal economies. A number of references were also made to developments in new technology.

One of the key elements of that economic climate, though, was the tax system. There were four major tax themes that seemed to be singled out by witnesses, those being general levels of taxation, tobacco and beverage alcohol taxes, fairness in compliance and, last but not least, the GST and the PST.

1020

I think I'll quote something from the report with respect to the section on the GST and PST:

"Witnesses told the committee that the GST was originally commended as a self-collecting tax that would actually reduce tax evasion because of the paper trail it required. Input credits were to be claimed at each value adding stage of production for the taxes paid at an earlier stage of production. The tax presumed that because the end retailers of goods had to pay the GST on all purchases, they would be compelled to charge the GST on final sales.

"In the opinion of the Board of Trade of Metropolitan Toronto, the tax's flaw is its inability to provide incentives to the providers of services with low material input costs to charge the GST. The CGA spoke to this flaw as well. In the absence of what the CGA called 'an effective, point-of-sale means to enforce compliance,' consumers are unable to resist the temptation to evade the payment of the GST and the PST. Suppliers were equally motivated to participate, to make a sale and for tax reasons.

"References were made to what were considered the GST's positive characteristics. It is lower than both the MST it replaced and the Ontario PST. Low-income earners receive a credit and a number of goods have a zero rating. Unlike the MST, it is visible. This visibility led members to ask if the tax would have been more palatable had it been invisible. While some felt there might be advantages to invisibility on a theoretical level, the consensus was that visibility and consistency in the posting of prices were preferable to invisibility."

The Ministry of Finance and the Liquor Control Board of Ontario also advised the committee of the initiatives that they had in place at the time to counteract the effects of the underground economy. You'll have, in your briefing notes, the recommendations from the finance committee's report. I'll just highlight a few of those on page 27, under the heading "Taxation."

"(1) A consensus should be developed on what constitutes a 'fair' system of taxation."

"(2) Attention should be paid to the limits of public tolerance and the elasticity of the relationship between consumption and the rates of consumption taxes."

"(6) Governments at all levels, and their agencies, should cooperate to the greatest extent possible in sharing information considered essential to controlling the underground economy."

This was one of the recommendations referred to by the auditor in his report.

With respect to enforcement and compliance, the committee recommended, in recommendation 13: "Audit surveillance should be increased, but only as long as it is effective. Enforcement/compliance might also benefit from the use of matched and cross-referenced data files, and additional information from tax filers."

Finally, and this recommendation was referred to by the auditor as well:

"(16) The Ministry of Finance and others should be encouraged to conduct further research into the underground economy. Areas of study could include compliance, enforcement, sector-by-sector analyses and audits. Consideration might also be given to the incorporation of taxes into posted consumer prices."

The finance and economic affairs committee finished its hearings in early December 1993. Later that same month, the Ontario Fair Tax Commission tabled its report, *Fair Taxation in a Changing World*. The commission had been created by order in council three years before to "advise and report to the Treasurer of Ontario and Minister of Economics on the design and implementation of a more equitable tax system in Ontario."

The commission made over 100 recommendations in a broad range of taxation areas. Two that are of some relevance to the debate today are those dealing with compliance and the retail sales tax. Those are included in the extract from the Fair Tax Commission's report that you have in your notes. Recommendation 10 deals with the issue of compliance. Jumping ahead to recommendation 60, under retail sales tax: "Given the existence of a comprehensive sales tax at the federal level, Ontario should harmonize its retail sales tax with a national sales tax modelled on the federal goods and services tax. This would involve accepting the basic structure of the GST as a multistage sales tax or value added tax." They list a number of provisions.

The finance and economic affairs report was tabled in February 1994. The Ministry of Finance tabled its response the following July, and you have a copy of that response. I apologize for the lack of clarity in the title. The sticker advising on this sessional paper number and the date it was tabled seems to cover up part of the title.

You may be particularly interested in the ministry's responses to the recommendations that I highlighted earlier, such as recommendation 1: "A consensus should be developed on what constitutes a 'fair' system of taxation; and then number 2 on public tolerance; jumping ahead to number 6: "Governments at all levels, and their agencies, should cooperate to the greatest extent possible in sharing information considered essential to controlling the underground economy." There they had listed several of the initiatives that had been put in place.

Recommendation 13, regarding audit surveillance: The ministry also referred to a number of the initiatives, most particularly Project Fair Share, which was introduced in 1993, and also amendments to the—well, it introduced a Revenue and Liquor Licence Statute Law Amendment Act.

Finally, on recommendation 16, with respect to further research: The ministry discussed some of the arrangements it had made with Revenue Canada and also amendments to the Retail Sales Tax Act.

The final point deals with the continuing discussion about replacing the GST. There have been developments in that area, since June and July 1994, at both the federal and provincial levels, but those will be incorporated into the presentation for next week.

The Chair: Thank you, Ms Campbell. Mr Pouliot, you have a question?

Mr Pouliot: Yes. Thank you, Ms Campbell. I will just start with saying that as per the recommendations, it's a duty to avoid but a crime to evade, but this is for another discussion.

I have only one question vis-à-vis harmonization of taxes, or integration, if you wish. There are some ramifications. I understand that some people a priori spontaneously say, "Well, yes, maybe the time has come etc, or, we understand that not everything stays the same": What is taxable, where do I get the hit and what is not taxable, because there are a lot of changes.

When we looked at it in cabinet—and I must admit that cabinet and caucus were split—we heard some sympathy among ourselves, but when you started to look at what it means, for instance children's clothing, sanitary products becoming taxable, we felt, and I speak very candidly, that in our case the political hit was not worth the supplementary revenues, especially at its inception, that we would get in year one.

We too looked at hiding, at making recommendations to others in terms of putting the GST in the cup of coffee, not leaving it outside as an aside. So, with respect, I believe my question is legitimate not because we've been through it, but it's fair, before we make some recommendations: What is it that we're looking at? What are the ramifications? When is the other shoe dropping? If we harmonize, the word, the concept makes immense sense. You avoid some duplication and it's a nice waltz. But one partner begins to leave you as you look at the downfall, and I'm interested, as a member of the committee, to say what would change?

Ms Campbell: There certainly are ramifications, but I think the Ministry of Finance will be better able to

respond to your concerns when they make their appearance before the committee.

Mr Marcel Beaubien (Lambton): To follow up on my noble friend across the table here, we keep talking about more audits, more stringent enforcements of taxes, harmonization. We've been talking about that for 15, 20, 30, 50 years. The problem is, maybe the system we have in place right now does not work. Maybe we should be looking at another way of taxation.

As a former small business person I spent an awful lot of money on auditors. Revenue Canada or whatever government agency would come back and do an audit. You have to spend more money, and for what? In most cases they don't get anything. And why do we think that we have a very thriving underground economy today?

I think we have to look at what the problem is, not trying to be more stringent in enforcing the regulations. I think we should enforce the regulations that are there, but maybe the regulations that are in place are not enforceable. Are we going to try to stop every speeder on the highway today? We can't afford it. So I think, can we stop every tax cheat in this province? The answer is, definitely not. We cannot do it; we cannot afford it. So why not look at another way of bringing revenue into the province? What the answer is I don't know, but mainly we're going on a chase here and we'll never catch the cat, because the cat is way ahead of us.

1030

Mr Dominic Agostino (Hamilton East): I'm a little surprised at that sort of approach. It's almost a sense where we're saying let's throw our hands up and let's justify and say it's acceptable to continue this kind of illegal activity. It reminds me of what I think was a wrong approach by the federal Liberal government in cigarette taxes, which was the exact, same thing. We have a problem, and rather than trying to deal with the root of the problem—it's an illegal criminal activity, smuggling cigarettes—we're going to lower the taxes on the cigarettes so it stops the smuggling, and to hell with all the other consequences of what happens. I think that's a danger that we have to be careful of.

There's clearly a problem, and the tax system is part of that problem, but I don't think we can use the tax system to justify what clearly is massive fraud in the province of Ontario and probably across this country. It's massive. If the government can recover 10% of what is being defrauded out there right now, you can think of the kind of revenue that could come into the province of Ontario and could offset maybe some of the other things that we're doing here.

My sense is that we should be looking at a strategy that will make it tougher; I think you look at a strategy where you crack down even harder. There are some good models in Europe. It was a massive problem and it still is in many parts of western Europe, the underground economy and just everything being done without the use of taxation being avoided. They've got some of the countries on pretty stringent laws that require retailers and things like that to ensure, as an example, that it is a serious penalty if a retailer does not provide a receipt in every single instance.

All of us can probably think of examples where we've gone in and we have paid—it could be smaller things—for the film and we've paid the GST or PST on it, whatever, and you make the exchange. I don't even realize whether or not I'm getting a receipt for it unless it's something I think I'm going to have to bring back. Often that type of thing maybe is not punched in; it isn't paid. It's a simple thing like that and in some of the European countries it's a serious offence.

They have spot inspections and people to walk in and basically—and there's almost a paranoid fear of not giving that receipt, when you purchase something, because the person there may be one of their auditors or may be one of the sort of undercover inspectors that are being used. It's that kind of mentality that has helped to cut that down.

I think you take the approach where you make it paranoia, literally, for people to make sure they don't get involved in that kind of activity because of the consequences of it. I think there are a lot of things that can be done but I truly don't think the answer is saying, "Well, we can't do anything about it and we really can almost justify it."

We said in the House before, there's a different standard that I think we're trying to apply, that my friends are talking about here, that would apply to this kind of fraud and this kind of cheating in comparison to welfare fraud. Income tax evasion is the same thing; it's almost a justifiable offence and the courts treat it as such. You get people who go into court on welfare fraud often getting nailed harder for a fraud that is minimal, compared to tax fraud at the other end, and they get off. There's a whole standard there, I think, that is applied and certainly that's not a mentality that I subscribe to.

Mr Pouliot: I took note of the quote, "economic climate at the time." Really, if you do it once, it's usually easier the second time around. I would not pay, in my humble opinion—I could be wrong—too much credence of time. It's a style. If, given the opportunity and if you have a buyer/seller—it's an exchange. We all know the classic, if you wish, of "Who renovated your bathroom, your basement?" and so on. "Well, I got three different quotes," wink, wink, nudge, nudge. Guess which quote?

So it becomes a style of operation. The taxes need not be—and that's arbitrary, because you have to factor in the services. It's an exchange. But since I earned my first dollar, I for one thought that I was taxed to the limit, thank you, that my duties as a citizen vis-à-vis the state had been fulfilled in their entirety.

Traditionally, governments don't forgo, don't yield easily, what they see as the state revenue. Usually it takes long. That's why we have the shortfalls in governments. They will put more resources into tax collection, perception of revenue. They will police this with a zeal that is unequalled in other ministries. When people say spending, they tend to look at the second, the sideshow. The thing is resources: Are we using all the gizmos, all the gadgetry possible? How do people operate? Are we getting value for money from the section of the ministry which is to go out there and collect what all taxpayers are entitled to? Maybe that's a question for thought.

To everyone, I'm sure, there's a side of us that says, when Cornwall becomes the tobacco capital instead of Tillsonburg and we yield on what is a consumer and view it as a sin tax—completely optional and you have more latitude. Liquor is the next one. They're really not a necessity and we have to forgo \$500 million of provincial money each and every year because we can't control the system because we didn't go to the factory floor maybe—I know it's not that simple—and collect the tax right at the source before it goes down the system, because it filters down.

I'm sorry—and I'm a smoker myself; I do make a contribution—but there's no reason why people like me should get a \$1,500 break a year because of our failure as a government, feds and provinces, to stop the bloody system. It makes no sense at all. It's the biggest bargain in town and now I see that some people say, "Well, look at it in terms of smuggling for alcohol," and they want you to reduce the taxes.

I don't wish to impute motive, but we all preach for the parish. If I'm the owner of a small bar, I know my clients are going away, that if I sell a glass of bar Scotch at \$6, I've gone over the threshold. Maybe it's because the taxes are too high there, but the thing is you have to collect as much as possible, because those are revenues that—you make your projection on revenues, what's out there, and you fail to collect those revenues.

That's all I have to say, but I would like to see the focus; they owe us an answer. What are the people in Finance, the revenue side, saying? What is their expertise? What is it we should do to go and get the money that's owed to the government, owed to us as representatives of the public?

Mr Gilchrist: I certainly don't want to prejudice any of the commentary that will come from the auditor himself, but I think it's important to stress from a personal perspective that I certainly am not comfortable with throwing up my hands and admitting defeat in this category. Over 25 years as a retailer and as one who had put in, along with all my colleagues within that corporation, one of the most, if not the most, sophisticated point-of-sale inventory control systems in the world that quite literally left zero opportunity to avoid the remittance of the appropriate tax, because it's all captured and there was no mechanism at the office end to in any way work with the numbers that the computer had captured, so it was extremely easy to audit, I am certainly sympathetic to a suggestion that this same standard be applied to all businesses, with the exception perhaps of street vendors selling hot dogs and the like.

1040

But there is no doubt to anyone in the retail business that, if anything, the estimates that the auditor has reported are on the low side. I don't mean to besmirch the individual reputation of anyone in the categories I'm about to discuss, but as a generality, it is an absolute fact that flea markets, street vendors, any number of entire industries are populated with almost exclusively people who are abusing the tax laws of this province.

When you go to the flea markets—and there are many of them in the Metro Toronto area; they pop up on the

weekends—all of these people tend to have Visa and MasterCard numbers. These are not unsophisticated ma-and-pa-cleaning-out-the-garage type flea markets. I have no problem with someone selling something on their front lawn. It would not be worth the government's time and money to try to police that sort of retail effort. But we're talking about very organized carpet and framed prints and perfume and any number of commodities which would normally be found in retail stores, department stores and the like, which are being sold. And the appeal is almost exclusively not the low price, but the fact that you are avoiding the tax, the GST and the PST. In some cases, it is actively promoted as such.

For government to have turned a blind eye to such obvious violations—and this goes back many years. I am absolutely not pointing fingers here. This is a systemic problem and is one which I think would yield a far higher number than even the auditor's extremely scary total would suggest. At the same time, I've seen at first hand examples of people in the vending business, both machines and the street variety. I think back to a gentleman—I won't name the location, but a particular hot dog cart. This gentleman was a recent immigrant to Canada, about eight years ago. Within two years he was driving a very expensive GM car.

Mr Pouliot: And he's small; imagine the biggies.

Mr Gilchrist: Within four years his wife was also driving a similar car, and within five years he had a house in Guildwood completely paid for with no mortgage. Now, that's not bad considering there wasn't a single product in that cart selling for more than \$3, and there is no doubt in my mind, none whatsoever, that the Ontario government got not one cent from him. We can smile and say, "Isn't private enterprise a beautiful thing?" but the reality is that gentleman is using our roads, his kids are using our schools, the street lights come on for him the same as they do for you and me, and the fact of the matter is he is not contributing his fair share.

It is clearly incumbent upon us to find a mechanism to deal with that sort of systemic abuse. The members opposite have already made some suggestions that I hope the auditor at some point will comment on, such as harmonization. Clearly the ability to distil this down to one system would make it easier to enforce; the need for an absolute recorded mechanism to provide a specific audit trail that is absolutely ironclad; perhaps to require that all vending machines be upgraded to incorporate absolute, complete, 100% data capture that is inaccessible to the user and only an authorized manufacturer's rep would have the ability to come in and, in concert with your accountant, interpret the data that the machine has captured.

While we're all sympathetic that there have been tough times and that there's a need for small business to thrive, you can't make a case that there should be anything other than a level playing field, because when the Becker's store, which is audited perhaps by his head office, can't compete with the private milk store just down the road who rips up half of his incoming invoices so that when you come to audit him, there's still an appropriate balance between purchases and sales, clearly we've got to level that playing field.

I look forward to the auditor's comments on the need to both distil down the current complexity of the tax system to eliminate the duplication of the two systems, and to find a means to once and for all deal with the issue of fraud. I particularly like the comment from Mr Pouliot about looking at taxation at source on items such as cigarettes even if it means—because clearly the problem was, when it was the manufacturers' sales tax, it was then refunded to you for any cigarettes shipped across the border, and that became the inspiration for smuggling back into Canada.

Maybe the time has come to say we'll lose export sales if we have to, because the health concerns and the tax concerns—and, quite frankly, the irony is that my guess is the numbers would play out that even if we did lose all export sales, to go back up to the tax revenues we would garner by going to a tax at source, we could come up with an income replenishment program to reward tobacco farmers who saw a decline in their sales and still have more money left in public coffers and still be able to deal better with the health concerns and the very legitimate concerns of the people in Cornwall and the area around there of the criminal element that's involved in smuggling.

I look forward to the auditor's comments and I hope he'll touch on these subjects and more.

The Vice-Chair (Mr Mike Colle): I have Mr Boushy to speak, unless you have a direct question, Mr Pouliot, of the previous speaker.

Mr Pouliot: No, I don't have a direct question. I have a supplementary, but I can waive it because I've already taken a lot of time. So I'll wait. Thank you.

Mr Dave Boushy (Sarnia): Just a question, perhaps, to Mr Peters: Can you tell me what is the fine for one who pays \$1,000 in cash and what is the fine for a person who receives the money? Could anybody tell me how high the fine is, what is the penalty?

Mr Erik Peters: We will get you the answer, but we don't have it with us.

Mr Boushy: Because my personal experience is that the people don't seem to worry about any fines. They just get the money, "It'll be okay; let's go ahead and do this," kind of thing.

Mr James McCarter: Part of it too is, on the penalties, they have to determine whether it's kind of deliberate or whether it's a clerical type error too. I know, for the auditors, sometimes it's difficult to actually prove it's deliberate fraud, in which case you can level a penalty, as opposed to administrative oversight. But the actual amount of the fine, we'll have to get that to you.

Mr Boushy: I had a personal experience of a garage owner. The first time he fixed my car he asked for cash and I happened to have the amount on me, and I gave him the cash. Then after I thought: "Why would he ask for cash? The next time I go there I'm going to give him a cheque." So the next time I went there, he fixed the car and he said the amount and I took the cheque and he said, "Oh, well, leave the name blank because I'm going to put it in my wife's name." So the third time I made sure I put his name and the amount, because I knew what

he was at. It seems like this is going on with a lot of businesses, and unless there's a heavy fine and the people are afraid to take this kind of money, I think they'll continue to do it. So according to my experience, this would be the answer.

Mr Colle: I just think we should maybe focus on process a bit. I know there are all kinds of cases and we've all experienced them at first hand, I'm sure, and with our constituency. I would hope we could do perhaps an examination of different tax collection or tax avoidance systems in North America or even western Europe to see what are perhaps some mechanisms that work. I know the province of Nova Scotia has just enacted some legislation to deal with this problem, so I hope we have an opportunity to look and see what their initiatives are and that perhaps we could take an overview of a carrot-and-stick approach, because I don't think one exclusively will work, and especially given, as someone mentioned, the economic climate.

1050

I also hope we don't just focus it on the retail end or on small business, because I think they're the easy targets perhaps. I think there is a systemic genesis to this, and I would think we could maybe get a lot more benefit from our time spent in this committee if we can come up with some really manageable, reasonable propositions that we could put forth to be adopted by perhaps the Ministry of Finance and essentially be of benefit to people who have to somehow make a living out there and deal with this problem, and we as government trying to collect its rightful taxes. I hope we will take that approach.

I would also think that some of the recommendations we might be able to make—I think some of the ones I've read here in the last deliberations on this issue have to deal with the situation that ordinary small-type business people find themselves in.

I think Mr Beaubien was speaking and Mr Agostino was speaking—it brought to mind a case in my own area where there is a small entrepreneur who opened up a barbecue chicken retail outlet in a very run-down area that everybody was walking away from because they said it wasn't a good area. But he went in there and started barbecuing his chicken and selling chickens. Before you know it, it was a thriving little business and the four or five adjacent stores that were empty are now rented out. He did so well that he took out a mortgage, bought the building next door and renovated it at quite a significant cost, and then he wanted to set up a chicken restaurant and have a liquor licence in the building. This was about two years ago. For two years, after spending the \$150,000 on renovation, buying the building, carrying mortgage costs, he still hasn't been able to get a liquor licence.

Here's an individual who's basically trying to improve an area, employs seven or eight people, who's putting up his hard-earned money to try and essentially make a living, and then government is seen as sort of the obstacle to furthering his ability to earn a living. What happens is the government then comes along and tells him, "Well, now you have to be audited, and you owe us so many thousands of dollars on GST, PST." In fact, this

individual is being audited right now. So he says: "What's the use of doing this? I mean, I just cannot get any cooperation with government. The only time I see government is when there's a tax problem—I haven't paid my property tax or business tax or GST, PST, and Revenue Canada is after me now too."

I think those are some of the areas I would hope we could at least offer some suggestions where government can be seen more as a facilitator and not an obstacle, especially, as I said, to the small entrepreneur who's essentially trying to be independent of any kind of government assistance and trying to make a decent living. I would really like to see that made more of a holistic approach, and maybe we can be listened to, I think, if we do that. I think if we just come down in terms of sanctions and penalties we may perhaps get some attention, but I don't think we may end up with some productive results at the end that will help the situation out.

Those are just my comments on it, and I hope we can take those into account.

Mr Peters: If I may make a few comments and they may dovetail very well in what was just being said, this essentially is the meeting in which you organize the committee for the hearings that you want to do so I'd like to spend, if I may for a moment—just some suggestions on process that you may wish to follow or take a look at.

All the recommendations that we made in our report were discussed certainly at length and some time ago with the Ministry of Finance, and their responses were duly noted in our report. You will see that they largely agreed with what we had to say and they were proceeding that way.

When you are considering calling witnesses before you in your hearings, you of course would like to hear from the Minister of Finance as to what is currently done, what the action is, take a look at some of the programs that they had in place at the time, how effective they were etc. So you will want to hear from them.

But you may want to also actively consider hearing from other witnesses. Maybe some of the small-vendor community could be represented, make their point to you, as to where there are concerns, because one of the major areas that is of concern is that when you look at our report, although the media very much picked up on this audit point, it is not really the main point of our discussion.

The main point is to do research in the underground economy to find out why it is happening, how it is happening and what is happening out there, because there is one other area that we very closely got into, and I think a number of speakers have referred to it, and that is, what are the rules? Are the rules clear enough? Can the people out there follow? In audit, into what is a totally nebulous area of rules and regulations, it is a very non-productive item because it then gets into interpretation of one side versus interpretation by the other side.

One of the areas that you might want to delve into, and I think it would be very helpful both to the ministry and for the work of the committee, is to find out what the real reasons are for the failure to collect. Are the reasons because the rules are confusing, people don't know what rules to follow? Are the rules in fact counterproductive to

business itself? So compliance may be one area. Certainly, enforcement is another area, but enforcement becomes, you know, state police if the rules are not clear and if the rules are perceived as being unfair. These are some of the areas you might want to get into when you discuss as to whom you, as a committee, would like to call before you to talk to this issue.

The other area is in process. We follow a policy very clearly in writing our report of not stating particular areas of weakness in the system so that our report does not effectively become a blueprint for people who want to abuse the system. If you want to discuss some of these items, as to what is really going wrong, what is going on out there in detail, you may wish to consider holding that meeting in camera and off record so that you get, as members, a feel, an idea as to what is really going on out there. You may even want to have witnesses on that. But the minute you start to provide a record of those things, you become, in other words, maybe partly a contributor to people avoiding. We have had that before.

We, for example, had before the standing committee on public accounts in the meeting the matter of health cards some time ago and how to abuse health cards and went in camera on that one because we didn't want the committee to become part of giving a blueprint out there as to how to abuse your health card. So the same areas should be covered in here.

Very specifically, and we're glad to provide this to you if you need it, we have prepared a little extract of just the recommendations, and I'd like to particularly bring the first recommendation to your attention as a focus area, and that is that the ministry should conduct additional research into the underground economy and use the results to focus its efforts on reducing the gap. When we talk of focusing the effort, you can see very clearly it was not just focusing on hiring additional auditors; it was focusing on, what does it yield? When you find out why you're not collecting, what is the corrective action that has to be taken?

The second area is one of cooperating with other ministries in the Ontario government which may have information that could be used. For example, the Ministry of Consumer and Commercial Relations has a business registration database, and maybe that can be used.

The third area is to improve the audit process itself. In other words, do a risk assessment and focus the audit effort into the high-risk areas where things are going wrong—from where you go.

1100

The last part was specifically addressed at the small-vendor community simply because we know that the community itself had grown since our last audit by 13%, the number of vendors audited had decreased by 22%, giving a net reduced coverage even from the 1989 level, which was the last time we audited, of over 30%. That was of concern.

Mr Pouliot: A subtle observation as to uniformity: one ministry, another ministry, and yet another ministry. Sometimes we tend to guard or see our own, or regard it is a fiefdom and they don't parallel—they do more so, I

believe, than they did at one time. At least they talk to one another. At one time—please correct me—it was expected that even the accounting system could have differed from one ministry to the next.

We need more people. We have a commitment to have US people; it's the style nowadays. I know that's where the money is, I suspect that's where the money is. The vendor, the person that goes from point A to point B—it's not a witchhunt. The methods are there and people will abide by them as much as possible.

I'm not imputing more to that. We're T4 people and, at best, as a small supplementary, we're T5. We're easy to trace. Everybody knows us completely from tattoos to distinguishing birthmarks. There's nothing here that can be—here I am. I'm not inviting people—maybe my expressions are not right—to “take your money and run.” Don't go into the system of foundations. I can't even spell Liechtenstein, Mr Auditor; Switzerland I can, but there are some, the Grand Canyon and so on. Those are the consequential people, but it's all legit.

There's no question when you read—you don't need the financial pages, but people who analyse those think the tax system, although there's an attempt to streamline, has become—that's why you hire people, people like yourself in the private sector, with respect, people who know their way, they know the jargon, they know how the system works, they readily come up with a timetable, and then it becomes instinctive. You're right, I believe so. I don't know about that, and at times it's genuine. Ignorance is no pretext, or a very feeble one, vis-à-vis your commitment to pay, to fork over.

You don't have to go too far, once we get past the tax form; it gets to be pretty bloody complex. Who's to blame the street vendor on a day like today, when there's an ill wind, trying to make ends meet while cold makes you a little numb and sometimes you forget. You have to address the priority of the day; whether the Sheraton is going to open a hot dog stand right in front of you—that's a scary moment—and undercharge you by 50 cents a hot dog. It's not every day that we could organize or sponsor a demonstration where we get everybody in the business section and they buy hot dogs. Sometimes they get their supplies from the Daily Bread.

You don't think it's funny, Madam, but you'll see more here.

The thing is to go, when you see the tax evaders, publish the name; your recommendation—you don't need that one, there are so many—number 14, to publish the name. You have to be given a chance at tax evasion. When we talk about so many people making so many hundreds of thousands. I know we're at the retail level here, but before you buy things you have to earn an income. There's thousands and thousands of people who make so much money per year and don't pay a God-damned cent of income tax, and Josephine and Joe Lunchpail, the ordinary people, the middle class who are paying for all that, come under scrutiny when they try to open a small business.

I don't want to seem vengeful, but when we focus on the street vendor, let's go and look also—no one is immune here—at the people who are selling the products so he can retail at the street level.

K.C. Irving and the like operate from the Bahamas, which is sinful—billions of dollars under the foundation. The foundation is a fraud by all accounts; it's being un-Canadian. But you have a sense of noblesse oblige; I mean, the Ballards of this world. Because you can be at times a bum with money, but if you have the money, you are above all these things. But no focus, hands off those people. So let's be a little more even; fairness of taxation was the first word that was mentioned here this morning.

The Acting Chair (Mr Joseph Cordiano): Mr Peters, you wanted to make a comment?

Mr Peters: Yes. I think those are very important points that are just being made, and this is why I was talking about the rules, because we are talking about the large vendors as well. The risk on the large vendor is tax avoidance because you can hire accountants and lawyers to find out what the rules are that can allow you not to pay the taxes. That's why in the overall conclusion we are talking about a perception that the tax system may be perceived as being unfair, and it can be perceived as unfair if the rules are not clear and if you can get out of paying taxes by making rules that are ambiguous and that cannot be followed.

That's why in my comments I was particularly keen that the committee may also want to focus on what rules are presenting a risk to the government not collecting the taxes, because both tax avoidance—if there are loopholes that can be plugged, they should be plugged. The other one we're talking about, of course, is tax evasion, and tax evasion is considered tax fraud. It's not just all tax evasion we are concerned about; we're also concerned about tax avoidance.

It would be of interest to hear from the larger segment. I notice, for example, that today there is a very interesting letter to the Globe and Mail from the vice-president of planning of the Hudson's Bay Co who says: "Look, one of the problems that we are really suffering from is lack of clarity, having across Canada to collect under nine different systems. Something is in on one province and out in the other, and we have to get very complicated systems." If we can help the system by making the system fairer through clearer rules, we may be serving it as well as by getting into the enforcement area. So that's the comment I had.

Mr Toni Skarica (Wentworth North): I'm a little unclear what we're doing here, but I gather from your comments that we're trying to figure out how we're going to go about the meetings. I would like to suggest that when we get witnesses, we don't just focus on business people. We've been focusing on small business and big business. I would like to get a whole bunch of consumers in here from different income levels and ask them, "What's the point where you're prepared to cheat?" Because I know when the GST came in, I did not want to buy anything, because that was it, that was my tolerance level for paying new taxes.

There's very limited information on what the point is where people don't want to pay tax and they're going to cooperate, because basically business people can't cheat unless the consumer is prepared to be a willing accomplice. Mr Boushy indicated that when he was asked for

cash when he got his car fixed, he was prepared to give it. If he's not prepared to give it, then that person can't cheat. I'd like to say, as an aside, he seems to be getting his car fixed a lot. I wonder if he's been doing a lot of driving on Mr Pouliot's roads.

In any event, I think it's important for government to know, in a climate where we're reducing taxes, how far down do we have to go before people will not cheat? Hong Kong, for example, has a 15% flat tax rate. There's virtually no cheating that I'm aware of. Obviously, as you get higher and higher tax rates, you're going to get more and more cheating, because it's worth it. So I would like to have some witnesses, just basic consumers at different income levels, and ask them, quite frankly, "What's the level where you're prepared not to pay taxes and pay cash and cheat?"

Mr Beaubien: I'd like to comment on Mr Peters's comment, when he said that we should try to find out what is wrong with the system. I think we know what is wrong with the system. I certainly agree with Mr Pouliot that we have to make the taxation system a more equitable and, certainly, fair system. As Toni pointed out, if you go buy a suit and the retailer says to you, "You pay me cash," you can save yourself 15%. I ask each and every one of you around this room today if you say, "Why shouldn't I do it when I see the big banks"—and I don't want to pick on anybody—"big enterprises getting away with millions and millions and millions of avoidance, if it's not cheating at times, so why shouldn't a little guy do it?"

That's why in my opening comment I said we should look at some other way of getting our dollars, or our revenue, because I think the system we have in place is too costly to enforce and we have too many people falling between the cracks. We can say, yes, we're going to try to be more stringent collecting the taxes, but if it's not fair, you're not going to beat that person out there; that person is going to beat you because the system is not fair.

How do we make the system more equitable and more fair? I think that's what we have to concentrate on, because let's face it, if the guy is in Manitowadge and he wants to save 15%, why shouldn't he do it when somebody else in Toronto is avoiding millions of dollars in taxes? So there's that perception out there that the little guy, the middle class, is bearing the brunt of supporting the governments, whether they're municipal, provincial or federal.

Then look at the problems we also have with property taxes. It's not only income tax, retail tax, but also property taxes. I think the revenue-generating process for the different levels of government needs to be revamped throughout society today. I don't have the answer, but I think that's what we have to concentrate on.

The Acting Chair: Any further comments or questions or discussion? Next week will be a detailed briefing session. I think the committee should decide whether that should be in camera. It has been traditionally the case that we go in camera for those briefings and it's probably recommended that we would do that.

Mr Peters: If I may make a suggestion in order to move it forward, I just wondered if you might want to

consider having your representatives on the subcommittee, in possibly another subcommittee meeting, discuss potential witnesses you might want to consider. Otherwise you have only so many hours of meeting, and if you want to spend the next meeting again on this sort of discussion, you may find it possibly a little bit frustrating.

There may be a way of putting together a number of witnesses you might want to hear from and then start scheduling those witnesses, because the clerk of the committee needs sufficient lead time to pull them together. Mr Chair, I don't want to put words in your mouth, but if you would like to have another subcommittee meeting that then will schedule the witnesses, that may be a way to go.

The Acting Chair: All right. So it's agreed then that the subcommittee will meet. The clerk can call a meeting to order for the subcommittee at the appropriate time, when you decide. You can do that over the telephone, I would imagine. I think it's decided then that the subcommittee will meet and order the selection of witnesses to

appear before you next week, at which point you would determine how to move forward.

Mr Gilchrist: Further to that point, I wonder if we can get some indication from the auditor how long his briefing would be first, before we start making promises about whether witnesses would have the time next week.

Mr Peters: If I may, the briefing is normally actually done by the research officer with support from us, and having provided a fair bit of information at this meeting, I would suspect that the briefing may not be all that long.

Mr Gilchrist: Fine.

The Acting Chair: The clerk suggests that we ask the Ministry of Finance to appear before you next week as well, so that would give you some additional time to get appropriate—

Mr Gilchrist: I think that would be appropriate.

The Acting Chair: —input from the Ministry of Finance. Is it agreed, then? Okay. No other business? We'll adjourn the meeting until next week.

The committee adjourned at 1115.

CONTENTS

Thursday 23 November 1995

Subcommittee report	P-5
1994 annual report, Provincial Auditor: Ministry of Finance	P-16

STANDING COMMITTEE ON PUBLIC ACCOUNTS

- ***Chair / Président:** McGuinty, Dalton (Ottawa South / -Sud L)
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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cordiano, Joseph (Lawrence L) for Mr Crozier

Also taking part / Autres participants et participantes:

Erik Peters, Provincial Auditor

James McCarter, executive director, ministry and agency audits

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

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P-3

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Journal des débats (Hansard)

Jeudi 30 novembre 1995

**Standing committee on
public accounts**

**Comité permanent des
comptes publics**

Annual report,
Provincial Auditor, 1995

Rapport annuel 1995
Vérificateur provincial



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 30 November 1995

Jeudi 30 novembre 1995

The committee met at 1101 in room 228, following a closed session.

1995 ANNUAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF FINANCE

The Chair (Mr Dalton McGuinty): We're now back on the record. We're considering item number 3 on the agenda and in particular we're going to hear from the Ministry of Finance.

Good morning and welcome. I wonder if you might please state your names for the purposes of the record and proceed with your presentation.

Mrs Dina Palozzi: I'm Dina Palozzi, the deputy minister for revenue and financial institutions within Finance. We have a number of staff here today. I'll let them introduce themselves.

Mr Roy Lawrie: Roy Lawrie, ADM, tax division.

Mr Bob Moxley: Bob Moxley, director, retail sales tax branch.

Mrs Palozzi: If I may, in the seats behind us I have Dario Savio, who is the senior manager for the audit branch within retail sales tax, and Peter Spiro, who is the manager of the macroeconomics branch in the office of economic policy.

The Chair: I understand you have a presentation for us and that you as well will allow us an opportunity to ask questions.

Mrs Palozzi: Absolutely.

The Chair: Thank you. Please proceed.

Mrs Palozzi: I propose first that I take a few minutes to set the context and then I'm going to ask Bob to describe briefly the ministry actions that we have under way or have planned in response to the Provincial Auditor's report, and presumably the committee will ask its questions.

I would like to just make one caveat at the beginning, if I could—and I know that Erik certainly is familiar with this—that if the committee wishes to discuss actual audit coverage rates, I guess the procedure would be to adjourn to an in camera session. If you're actually looking for the statistics on coverage rates, given the nature of that information and the impact that it has on voluntary tax compliance, I would suggest that that's what we do, if that's okay with the Chair.

The Chair: I'm in the hands of the committee. It's agreeable.

Mrs Palozzi: Just a few minutes then on the retail sales tax branch in the context of the overall tax division and then also just my brief comments on what I believe

to be the two principal recommendations that Erik has made in the Provincial Auditor's report; that is, the specific recommendation on the additional research to be conducted into the underground economy and then using those results to focus on reducing the tax gap, and the second recommendation, the audit coverage rate of small vendors and the recommendation that it be increased significantly.

There is a handout that we have for you that gives a brief summary. You may know that the tax division within the Ministry of Finance is made up of nine branches with the responsibility of administering 21 statutes. There are five program branches: tax credits and grants and corp tax, employer health tax, motor fuels and tobacco, and retail sales tax. In addition, we have four branches that perform specialized functions on behalf of all those statute branches: collections, tax appeals, special investigations and business services.

As the PA noted, retail sales tax is a significant portion of total provincial tax. That proportion is even larger if you exclude provincial income tax, which is administered for us by Revenue Canada. In the 1994-95 fiscal year, retail sales tax comprised 47% of the total tax revenue from taxing statutes administered directly by the province.

The annual net growth in the retail sales tax roll is typically around 3%, or 10,000 vendors. Our experience is that 50,000 to 60,000 new vendors register their businesses each year and, at the same time, 40,000 to 50,000 vendors cease operating. This tax roll growth, combined with longer audits, has resulted in some reduction in audit coverage of small vendors over the last six years.

As you know and may have had information on to date, there is no definitive estimate of the size of the underground economy. While the analysis of the use of cash indicates that it is probably in the range of 8% to 11% of GDP for Canada, details of the individual components of the underground economy are largely conjectural and there is no accurate measurement of the size of the tax gap in relation to particular tax statutes.

Certainly it is a general perception, as the PA notes, that the overall tax gap has increased in recent years. At the federal level the Auditor General has made those remarks in past years, and the key sorts of events that this has been attributed to relate to both the introduction of the GST and the recession, which appear to have contributed to that growth in the underground economy.

While no one has yet come up with any precise measurement of that tax gap, the ministry has taken

several measures to address non-compliance with tax statutes overall, and they include a range of things:

Legislative amendments to enhance collection processes, such as increase in fines and penalties for tax evasion.

Improved collection measures overall.

The publication of our successful prosecutions for tax evasion, including an annual tax enforcement bulletin that summarizes major prosecutions for the previous year so that the general public becomes aware of the consequences of tax evasion.

Information exchanges with other jurisdictions and with other ministries.

The signing of a memorandum of understanding with the federal government to coordinate various measures to address the underground economy.

The ministry has also recently signed an exchange-of-information agreement with Revenue Canada that will permit a number of new cooperative initiatives between retail sales tax and the GST area. These planned initiatives include:

The matching of the vendor database with the federal GST registrant database to identify non-registrants.

The sharing of RST and GST audit plans to enhance coverage and to better coordinate our efforts.

The sharing of actual RST and GST audit results to leverage coverage and improve efficiencies.

We are also looking at the ways in which we can enhance our current systems that will facilitate better risk assessment for retail sales tax auditing and collection so that our resources can be more effectively utilized.

We shall also be redeploying additional resources to the audit function from within the ministry, and I reference the minister's statement yesterday.

We conclude that there are no panaceas in these measures, no quick fixes that will spell the end to the underground economy or to evasion generally, but we believe that, taken together, these measures will go some way in addressing the compliance issues and some of the specific concerns of the Provincial Auditor in this area.

What I'd like to do now, if I may, is ask Bob Moxley, the director of the retail sales tax branch, to quickly highlight for you, in response to the PA recommendations, the kinds of things we have under way or have planned, and certainly questions at any time.

Mr Moxley: If we just go through perhaps the recommendations quickly, one by one, as they appear in the printed auditor's report, that might be a useful starting point.

The first one, the one that appears on page 107, if you have the auditor's report there, was that "the ministry should conduct additional research into the underground economy and use the results to focus its efforts on reducing the tax gap."

The ministry response was essentially that we agree in principle that future planned systems will give us better availability of management information, and we referenced as well the 1994 agreement, the memorandum of understanding on the underground economy, that was signed with Revenue Canada.

Just to give you a bit of an idea of what's being done under that particular agreement, the deputy has alluded to some of the audit projects already:

Looking at cooperation by sharing the audit field, make sure that we can leverage the audit resources that are available to both jurisdictions to do audits.

By deciding in advance what particular areas will be concentrated on, sharing audit plans to make sure we're not doubly covering one particular area and not covering another between us as well.

Sharing audit results.

Sharing information about audit selection techniques. With the introduction of greater amounts of technology and new software in the way of audit selection programs, techniques for making better audit selections are important, and there's a project under way there.

1110

Another project that's under the underground economy agreement, the memorandum of understanding, is to look at new registrants—new vendors for our purposes, new registrants for purposes of GST—and see what we can do there in terms of a compliance assistance program. It's the kind of thing that we used to call a special vendor assistance program that we had in the ministry specifically for a number of years, and we still do, where we go out and visit new vendors in particular industries or types of operations where you may have a higher percentage of problems or confusion about the applicability of tax than you do in other areas; wait till they've been in operation three or four months and then go out and see how they're getting along, see what problems they're running into with regard to the tax, see if their books are set up just quickly in such a way that they can properly record and remit the right amount of tax to the ministry.

We think there are some things there that can be done in conjunction with GST to again leverage the kind of resources that are available to both jurisdictions to do more in that field.

The second recommendation appearing in the PA's report, on page 108, recommended the comparison of databases and cross-referencing information from various sources in order to pick up people who may be on one database and should be on another but are not. We agreed with that in the response and noted that we have database matching plans.

There are in fact database matches that currently go on. We do receive now information, for instance, on alcohol purchases from the LLBO and the Brewers Retail and we match those back against information that we have on tax remittances by those members of the hospitality industry that have made particular purchases. That's very useful in identifying people who should be audited.

From the Ministry of Transportation we get information on motor vehicle transfers by dealer, which again can pinpoint areas where we may have particular problems and help to direct audit resources in the right direction.

From corp tax branch we get information that helps us to identify non-registrants again but also reported sales discrepancies by comparing what's being reported in

certain areas for corp tax purposes and what's being reported for retail sales tax purposes in the way of sales.

The deputy minister mentioned the other large planned database match that we hope will take place in the fairly near future, and that is with GST.

On page 109, there's a recommendation with regard to a management information system. The Provincial Auditor was aware of the design by the ministry of a new integrated computer system for taxes, encompassing a number of taxes over the longer haul, and the recommendation was that we "should ensure that all information needed to facilitate the selection for audit of high-risk vendors is considered in the development" of that system, and then once that information is available, the sales tax branch "should revise its audit selection assessment criteria to take it into account." The response was essentially that we agree and that file selection improvements are planned.

In terms of what we're currently doing, the retail sales tax branch now identifies high-risk vendors using profile codes and industry yield information and, as I've mentioned, in some cases third-party information, and the new integrated system is still being developed. However, we're looking not simply at the longer-term development of an integrated system but at steps that can be taken in the shorter run to facilitate audit selection, and we have a couple of things that we're working on now.

One of them is to provide for better, more user-friendly inquiry capability on the bases system itself. This is the computer system that supports the operation of retail sales tax, the concept here being that if managers have access to better information, audit managers, when they're planning their audits and making their audit selections—that those audits will be more productive audits and the selection process will itself be better. It might not be as complete a management information system as we'd like to see in the long run, but we think it's a useful interim step. We're also looking of course to merge and compare other databases and third-party information, PST being one that's already been mentioned.

On page 111, there appears a recommendation on audit coverage of large and medium vendors. There the Provincial Auditor indicated the branch should formalize, document and implement appropriate risk-based criteria for selecting large and medium-sized vendors for audit, and audit files should contain the rationale supporting the selection of such vendors for audit.

We agree in the response and indicated that we are currently developing standardized risk-based criteria for selecting large and medium-sized vendors for audit.

One of the points noted in the Provincial Auditor's report was the existing classification system where vendors were classified as to large, medium and small—A, B, C, as it was known, or at least the system that existed at the time the Provincial Auditor was examining it. Our audit policies called for us to audit once every four years, four years being the length of time that you can go back and assess someone without proof of evasion—then, of course, you can go back further. In order to protect what was then essentially 50% of the known revenue base of the retail sales tax we would do in effect

over a four-year period 100% audit coverage, or close to 100% audit coverage. Technically it's 25% a year, which doesn't quite come out to the same thing over time because vendors are going from one category to another or they're closing or they're opening or restructuring.

While our policy called for us to audit all of these vendors then, in effect 100% over a four-year period, and the auditor indicated that we should be doing risk-based criteria, recognizing that for the larger vendors it is useful certainly to have a very high coverage rate, but at the same time recognizing it might be a better use of resources if we could use risk-based criteria to select out of that group—rather than doing them all over a four-year period, select a portion of them for audit. What we've done in restructuring the audit categories into A and B is we've changed the definition of what's a small vendor so we in effect now have two categories, one of which, rather than having roughly 4,000 vendors as it did, being the combination of the old large and medium vendors, now has 8,000. That will give us a base from which we will select audits. We will review each of those 8,000 vendors for audit every four years, but we will not audit them all; we will audit a portion of them. That's probably a better use of the audit resources involved. It won't be the 100% coverage that we used to aim for in the past, but it will be 100% in terms of consideration for audit. By and large we agree and we think it's a better approach.

I should say as well that while the new category of roughly 8,000 vendors that will now be in that A category, that comprises remittances of maybe 57% or 58% of total revenue from the retail sales tax. So we will still be having a heavy coverage of the largest part of the revenue base of the tax, if you like. By the way, our procedures now call for, as the Provincial Auditor recommended, documenting the reason for selection in every case.

The final of the printed recommendations had to do with audit coverage of small vendors. The response talked about audit coverage being a blend of selection for dollar recoveries and encouraging voluntary compliance through wider coverage, and we agreed in the response that an increase in small vendor coverage was appropriate to the extent that it was practical in terms of other priorities.

1120

On current action, audit has been identified by the ministry as a high priority. That was certainly confirmed in the statement that was made yesterday, which talked about the reallocation of internal resources to the audit function. At the ministry we're working on a comprehensive plan to increase retail sales tax enforcement and we're developing that plan currently for the minister's consideration.

Maybe I should close it down now. I think that covers the major recommendations in the report, where we are in responding to them.

The Chair: Thank you. I guess then, if that concludes your presentation, we'll open it up for questions.

Mr Steve Gilchrist (Scarborough East): Let me start with the very last recommendation because I think that's the one that disturbs me the most.

When you talk about an erosion in voluntary compliance, it's all very well and good for the very, very, very small percentage of small vendors who will have an auditor drop in to see them unannounced at some point in the next year to learn the lesson that voluntary compliance is the only way to go or there's a heavy price to be paid in the alternative. But if we know that there is a decrease in voluntary compliance, what other steps are being taken to make sure the message goes out to every vendor in this province that there are significant penalties and that the government intends to do something to not just steady the decline but to turn it around and strongly enforce the existing laws?

Ms Palozzi: If I could comment on that. One of the ways we've attempted to convey the message and the government's view of the seriousness of failing to remit tax or tax evasion in its ultimate form is through essentially—it's only been the last two years that we've taken on a policy of publicizing the results of our enforcement activity.

There is a balance to be achieved in any society around tax administration, and the extent to which one wants to create a system where people understand what the requirements are on registration, and understand what the law requires them to do and then understand the penalties and the extent to which one can actually go on an individual basis, is limited in some senses.

I'd like Bob maybe to comment on the sort of thing that happens on registration, so that a vendor understands what their responsibilities are as they register.

Mr Moxley: One of the key things on registration is trying to make sure the vendor is aware of his responsibilities, make sure, depending on the industry he's in, that he knows how the tax applies to the goods or the services that he will be selling.

New vendors are supplied with a series of bulletins which comprise in effect a startup kit that talks about their responsibilities as vendors for retail sales tax purposes, which talks about the process for remitting tax, which talks about the application of tax in various cases.

Where a new vendor, someone who registers, is in default on their first return, we try, through a field visit, to find out why that vendor was in default and try to catch people who are in default on say the first return that's due to the ministry fairly quickly to get them back on the right path.

In some cases, of course, it's the fact that the business that has been registered as a vendor and was planned to start on a particular date didn't get off the ground for one reason or another. There may not be financing; there may be other problems.

In particular industries as well, whether or not there's been any default in filing returns—but there are some industries where there have been higher rates of default in filing returns, or higher rates of recovery upon audit than others and we try to get out to see those approximately three to four months after the startup, even if they haven't been involved in default in filing the returns, just to make sure the vendor is again aware of the requirements and that from a quick check things seem to be

going reasonably well in terms of the appropriate collection and remittance of tax. Those are not audits; those are sort of field visits.

Mr Gilchrist: That's all very well and good and I appreciate you outlining the status quo but, clearly, if your own admission in response to the auditor's report is that we're seeing an erosion involved in compliance, I guess my question really is: What are we doing to change the operating procedures to turn up the heat, as it were; if you are currently constrained under the legislation, and do you think there are other tools that should be afforded you? I think the committee would benefit from knowing that.

For example, is there a need to go after a loosening of the protection of hiding behind the corporate veil? Should officers and directors be more obviously and openly exposed to charges under the act? Should we be requiring a bond from anyone opening a business in a high-risk category to post a bond and provide security so that if you want to open—I don't want to generalize in any one industry, but you know what they are—open a business in that category for at least the first couple of years until you establish that you are not part of the high-risk component in that industry, that the taxpayers of Ontario are protected by knowing you've pledged an asset like your house or your car or whatever to stand behind the tax revenue that is rightfully belonging to the citizens of this province?

Mr Lawrie: I'll see if I can answer you, Mr Gilchrist.

First of all, we do have director liability with a due diligence defence in the Retail Sales Tax Act. It only applies to tax collected and not tax in respect of own use or tax in business inputs. If my memory serves me correctly, I think we've assessed over 153 directors for a total of just under \$10 million, and we've actually collected just under \$1 million. That sort of comes under the heading of what we've done already to address the problem.

I think it's fair to say that consideration of bonding will be one of the measures that we review and will make recommendations to the minister on. We have the legislation in place to require bonding. The problem is that if you're going to apply it on a selective basis, to be fair to the vendor population in general you have to have pretty good reasons for saying to some people, "You have to pay a bond," and saying to others, "You don't require a bond." We would want to take a very close look at that.

Finally, we've also got plans, just approved by the deputy, to reassign a manager to prosecutions of strict liability offences under the Retail Sales Tax Act. The main strict liability offence is failure to remit tax collected. That is probably fair to say a bigger problem than outright tax evasion in the retail sales tax statute. It's particularly understandable in small businesses that are new where perhaps accounting and internal control aren't the best but, at the same time, with an increase in accounts receivable, particularly in RST, deterrence is required to stop deliberate abuse.

By reassigning a manager to actually prosecute the POA offence—the Provincial Offences Act offence—we think we can leverage the deterrent effect over current prosecution effort which is, as I recall—of 28 press

releases on convictions and evasion since early 1993, 18 of those related to retail sales tax. We currently have convictions awaiting sentencing on retail sales tax evasion convictions of over \$5 million. I think you'll see some publicity arising from those cases because some of them are quite high.

1130

Mr Gilchrist: Final supplementary, a very quick one. We heard before you arrived today that the amount uncollected from what was reassessed was somewhere in the neighbourhood of \$25 million a year, though. Every one of those companies had directors and officers, and \$10 million is certainly a laudable start, but it seems to me that unless they have completely left our jurisdiction or are personally bankrupt, there would appear to be some opportunities still ahead of us in terms of going after the owners of those companies. I would encourage you to take whatever steps necessary, and if it is your expectation that we'll see that number closer to \$25 million a year, then I certainly applaud those efforts.

But I think that at the end of the day this is of critical concern to the people of this province. The dollars we're talking about in the underground economy—when you look at the economic statement that was brought out yesterday and the listing of all the other taxes, you could do away with the gasoline tax and the tobacco tax and the entertainment tax and half of the other taxes in this province if we were collecting all the retail sales tax that was due us. I hope we will see an even stronger prosecution of officers and directors in that regard.

Mr Lawrie: Yes. Obviously, with the due diligence defence, it does take a while for some of the cases to go through the litigation process. In fact, we have still to have our very first case on due diligence where the director feels that he has exercised due diligence and we feel that he hasn't. We haven't had an Ontario case on that yet.

There are some federal precedents, of course, but things do tend to move rather slowly through the courts, but it is encouraging that simply using it so far has resulted in the collection of about one tenth of amounts that, without the director liability, probably would have been written off in the past.

Mr Gilles Pouliot (Lake Nipigon): I have appendix A, the 1995 annual report under the auspices of our Provincial Auditor, and it has some recommendations, and then there's the sometimes predictable and sometimes innovative and therefore less predictable answer of the ministry.

I learned a great deal in the English language, when I was with the different ministries, as to what the response would be when you came calling, Mr Peters, and we had to come up and say, "Look, by and large you are well advised to comply, to heed the recommendation of the Provincial Auditor." So we would prepare a response—well, there's one here, the recommendation, "To more effectively enforce compliance with the law by the small vendor community and detect unpaid taxes owing to the province, the ministry should significantly increase the audit coverage of small vendors."

"Ministry response"—in full agreement—"As noted in the report"—and then it goes on to say, well, it's rather

simple, that some people fail to remit. The province says: "Hey, you know, we need the revenues. It's in the statutes." You comply. You check, you become the watchpeople, if you wish, of that community. That's within your mandate. Then you go on to say, "The ministry will endeavour to increase audit resources, while mindful of the current constraint environment and the government's downsizing initiative."

I want to commend you. I just have a look at you and you look very well. I don't know what your secret is. You must have a kind of self-discipline in your personal life, and I have to say this, and most of it is true here. I was there. I listened. I've been here 11 years and I listened to what they had to say yesterday. I'm in full agreement with the ministry. I think you're overworked, madam, gentlemen. They're asking you to abide by the recommendation of an apolitical team here, which is that of the Provincial Auditor. You have to go out there in the marketplace and get our dues as a state, as a government.

Yet you're not giving the tools. How are you going to audit people when you can't cut the anxiety? It's become so palpable, so concrete. There are fewer bodies; there are fewer experts; there are not the resources to go—well, my God, the day may come where we don't even have the ability to collect our taxes because we don't have enough people. That's one thing. So I understand this dilemma. That's something the committee will have to reconcile and make recommendations to give people the resources to go and get the province's dues.

There are some other ones here in the same report, "The ministry should conduct additional research into the underground economy and use the results to focus its efforts on reducing the tax gap." The ministry response: "We agree in principle." One must not be too bold. "We agree in principle." If my mother were still alive, God bless her, she would likely get a nice gift again at Christmas. Why do you go out on a limb like this, that you agree in principle? Is that not a little risqué? Then you go on: "Our 1994 memorandum of understanding with Revenue Canada on the underground economy includes this objective. When the retail sales tax migrates to our new computer system, management information system development is planned following initial implementation." I'm supposed to learn English, but you're making it difficult. "Management information system performance indicators will include the type of statistics suggested in your report."

When I read this kind of response, if I'm a minister of the crown, I send you a little memo, "Well done." You've got the wolves out. You're buying a little time here. First you agree in principle. It's hardly a determinant, a bold move forward, and then thank God for the computer. "Give us more time." Hey, they're talking about the underground economy each and every day. I heard my Treasurer yesterday talking about \$1 million per hour. He repeated it five times. At the end it was \$5 million per hour. That was his focus. What are you going to do here? Are you going to do it or not? When are you going to do it? Where is the timetable attached to the ministry's response, madam? That is your responsibility.

Mrs Palozzi: We indicated in our remarks and in our discussions with the Provincial Auditor that there are a number of things that relate to improving the information around the underground economy. There is a body of work that needs to be done that is based on economic analysis. I'm not aware of definitive works that in fact dimension the underground economy. What our response is relates to the tax division, the retail sales tax area, focusing in on the development of better management information that assists in identifying those areas for improved compliance to deal with the underground economy.

I do have with us from the office of economic policy Peter Spiro, who is familiar with the research aspect of the underground economy. If you wish, we could have some comments from there.

Mr Pouliot: If Peter can help us clear the path we'll welcome his contribution.

We're not getting away from the real issue here, are we?

Mr Peter Spiro: There is a variety of tools for analysing this issue. I think one thing to keep in mind is that no matter how hard you work at it, you will never measure it with a high degree of accuracy. People are out there. Obviously they have a strong economic motive to hide their income.

Mr Pouliot: With respect, I'm not too concerned about the hours; I'm concerned about the signs.

Mr Spiro: The one thing we've been able to do is using econometric analysis of the amount of cash in circulation. That's one thing on which we have good data because the Bank of Canada knows how much money it's printed, and generally people who evade tax use cash transactions in order to avoid creating an audit trail, which of course makes it very hard for the auditors. No matter how hard the auditors work at it and how high the coverage rate, there are going to be some people who are very hard to catch.

1140

So we look at the amount of cash that's actually in circulation and then we use an econometric estimation of how much cash we expect ought to be in use if GDP were only as large as the official data show, looking at that discrepancy we can, in a very rough way, estimate how large the underground economy is and how much it's grown. The auditor in his report referred to some of that research. We discussed some of the results at the standing committee on finance and economic affairs a couple of years ago.

There are other types of research that could be done. In the United States they do I think what's called the taxpayer compliance study every 10 years where they do a very large random sampling audit. That, from what I understand, is a very expensive process. It requires quite a lot of resources. If you undertake that kind of work, then you can get a more detailed estimate of evasion in various sectors.

Mr Pouliot: Thank you most kindly.

Mr Marcel Beaubien (Lambton): A comment; I don't know if I have a question, to be honest with you,

and if I do, it probably would be addressed to our guests here today.

Peter, I was glad to hear you say that it is difficult to measure the accuracy of the underground economy, but I think my learned friend across the room here last week described this underground economy as the second-oldest profession in the world. It's been around for a long time.

Mr Pouliot: You're a new member.

Mr Beaubien: That's right, and I'm learning. Everybody seems to be of the opinion that the implementation of the GST has fuelled the growth of the underground economy. Do we have any documentation to substantiate that statement?

Mr Spiro: It's not the kind of thing on which you can ever have documentation, but there have been a number of studies, including one I did myself that was published in the Canadian Tax Journal in 1993, which finds a high correlation between the growth in the underground economy, to the extent, crudely, that we can measure it, and the introduction of the GST.

Again looking at cash in circulation, Statistics Canada uses a variety of other tools. They estimate GDP through various different surveys and methodologies and, by looking at the discrepancy among various indicators, their results also suggest that the underground economy grew substantially following the beginning of 1991, when the GST was introduced.

Revenue Canada, or rather the Department of Finance Canada, also has done some analysis which comes up with results suggesting an increasing loss of revenue beginning around 1991, and of course there are the great many surveys of public attitudes that have been published.

I think KPMG Peat Marwick commissioned one last year asking people about their attitudes and they of course revealed this increasing tendency and willingness of people to evade taxes. Especially when asked about the GST, if I recall correctly from the Peat Marwick study, over half the respondents said they feel that it's all right or they would be willing to contemplate cheating on the GST if they had the opportunity; it's somewhat lower for personal income tax. So there's this sense that the GST is a very unpopular tax and people are inclined to evade it when they can.

Mr Beaubien: Consequently, being so unpopular, it does affect the retail sales tax and the income tax or whatever?

Mr Spiro: That's right, because they go together quite often.

Mr Beaubien: Will the appointment of 50 new auditors, to have more stringent collection regulations, rectify the problem?

Mr Lawrie: No, obviously it won't. The increase in the number of auditors would have to be very much higher, in our opinion, to have a very significant effect on non-compliance. The most recent evidence we have that's been published was a COMPAS opinion poll on the underground economy, on tax cheating. It was commissioned by the Financial Post in May of this year. I've got some extracts from it which go into some of the reasons

why people cheat on taxes or why there's been an increase, apparently, in their willingness to consider it. I can distribute that, if you like.

Mr Beaubien: Don't you think then that the perception of the people who cheat on the taxes may be due to the fact that they feel it's not fair, it's not equitable, that they're paying more than their fair share? I keep going back to this, because it seems that we're trying to rectify the problem by having more stringent rules and regulations, more auditors. But we haven't stopped the oldest profession in the world yet with all the rules and regulations, and in some cases we're trying to legalize it.

Mr Pouliot: We have the lowest tax rate in the world.

Mr Beaubien: You're not sure? I'll talk to you later. We'll have a discussion after, Gilles.

But I think we're going—by just appointing more auditors, by being more stringent in our collection procedures, yes, we may collect a few more dollars. But I think the underlying problem is that there is something wrong with the system, and I don't really think we're addressing that. We seem to skirt around it. We don't want to dance with it, we just want to bypass it. That's my feeling. Maybe I'm wrong, but that's the way I feel, because I really feel, rich or poor, everyone should pay their fair share.

Mrs Palozzi: Roy just distributed a summary of a survey that was published in the Financial Post that speaks to this issue of attitude. I think what's important to say is that a voluntary tax system is based on a notion of being able to maintain voluntary compliance through appropriate efforts. Therefore, the question around the population's attitude, what changes it in terms of values, I think what that survey would suggest is that there are a number of factors that one can attribute to shifts in those values, and I think some of those have been referred to both in the Provincial Auditor's report and comments made by Peter.

There is no exact science here. It is important that it is a combination of measures to be taken that maintain a voluntary compliance system in a tax administration system.

The Chair: Two more members have requested the opportunity to put some questions to you and we're going to be required to adjourn close to noon, so perhaps you could keep that in mind in terms of the length of your responses.

Ms Shelley Martel (Sudbury East): With all due respect to Mr Beaubien, he will understand when I say that while tax evasion might be the second-oldest profession by some people's standards, I guess what concerns us as opposition members is the lack of desire I've seen on the part of this government to get at this issue. I mean, we've got big action on welfare fraud, big snitch line, all kinds of posters. I sat on a committee on WCB this week where we're going to have big prosecutions, big fines on injured workers who engage in fraud. But from this government so far I haven't seen a whole heck of a lot to deal with what is a most serious issue and probably \$3-billion worth of a problem annually. And with all due respect to the ministry, I'm not blaming you for that.

The questions I want to get at have to do with two measures that we tried to implement as a government to deal in part with the question of fraud: auditors and the unified reporting system. I'm specifically referring to the Clearing the Path project and, secondly, Project Fair Share, which would have hired more auditors.

What I'd like to know, Dina, is if you can tell us where those two projects are now and whether or not in fact even the announcement the Minister of Finance made yesterday was just adding the total number of auditors we would have put in place in the third year of that project anyway or whether we are actually talking about new staff that are going to be reallocated under this government.

Mrs Palozzi: There are in fact two separate projects. I'd like to comment on Project Fair Share.

There was, as you know, an initiative that allocated additional auditing and collections resources to not just the retail sales tax—it was broader than RST—and I believe that was in 1994, if I have the year correctly, fiscal 1993-94, and we allocated those resources against the various tax statutes. However, as is the process in terms of acquiring these resources, there's a hiring process that has to be gone through and finally getting people on board.

1150

In the interim, governments have been undergoing constraint measures for numbers of years, including in-year constraint processes that often leave organizations in a position where in order to realize in-year constraint savings, there are only so many options one has in a budget, so that in order to deal with having to give up a certain amount of money, one has to respond to vacancies etc. So with that additional allocation in 1993-94, those resources were in fact constrained in 1994-95 by the ministry because of having to meet in-year constraints. That was previous to 1995. It was in 1994-95 that that occurred.

I think I have the exact numbers. They've been referenced before. Relating to retail sales tax, we had allocated an additional number of 29 auditors, and 21 of those positions—not individuals, positions—were constrained in 1994-95. That is part of the reality, unfortunately, in terms of dealing with in-year constraint situations.

Now, on the issue of Clearing the Path, if I could comment, Clearing the Path was an initiative, again of the previous government, around lessening the burden on small business formation and small business operation. It had two particular dimensions to it. One was the single business registration, which is an initiative where businesses can go to one location and through one form-filling exercise etc sign up for various requirements within the government. So a retail sales tax vendor number for EHT—Bob, is that right?

Mr Moxley: For EHT, for S-EHT, for workers' compensation.

Mrs Palozzi: It's meant to make the process that much easier etc.

The other piece of it was unified reporting. In reality the unified reporting initiative is one that is perhaps more helpful to medium or large organizations, and that notion is the notion of one billing system around the status of your tax obligations as an organization, so that your corporations tax requirements, your EHT, retail sales tax would come in—that's the notion of unified reporting.

The design work for that system that would link things has been done, is complete. However, the implementation of that has been deferred, given other priorities in the organization and given the discussions that have been going on around the reviews, around all of the choices in front of the government at the moment, around responsibilities of the ministry and other options that may exist around efforts with the federal government etc. The work has been done, the design work is available, and we feel it's an appropriate reallocation of resources on a temporary basis.

Ms Martel: Maybe I'm not clear about one point. Will that second initiative help you or not help you deal with (a) the recommendations that the auditor has around management information and (b) also give the ministry a better sense to deal with some of the things the auditor has said need to be dealt with, that is, audit selection, assessment criteria etc?

Is the second project, whose implementation is being deferred while a number of other things happen within the ministry, going to help you deal with some of what's in this?

Mr Palozzi: I'd like Roy to comment on this, but my general understanding of the unified reporting initiative is that it was designed to assist business in terms of reporting, the receipt of reporting. Maybe Roy could comment on the impact of unified reporting as related to the PA's recommendations.

Mr Lawrie: Included in unified reporting was a concept of building an electronic bridge between the ministry's new assessment, which at the moment holds data for employer health tax and corporations tax, and the Basys system, which is the EDP system for retail sales tax.

The reason that it was included in unified reporting was that it wasn't in the ministry's schedule to put retail sales tax on the new system until 1997. In order to have the benefit of linking RST with the other two major taxes, there was a fairly large expenditure to build this bridge. That's one of the items that was constrained in this year's constraint.

What we're currently doing in response to the Provincial Auditor's report is looking at ways in which, using Basys itself, as opposed to linking with the new system, we can allocate work in a more effective manner in order to try and leverage the resources we've already got.

So the long answer is, because the bridge is no longer funded because that was constrained as part of the sort of death of unified reporting, yes, there is an effect, but we think we can fulfil what we've undertaken to the Provincial Auditor in other ways—probably cheaper ways, actually.

Ms Martel: I just wanted to know when the constraint went on on that particular piece of the puzzle.

Mrs Palozzi: We constrained resources within the ministry—

Ms Martel: In 1994-95?

Mrs Palozzi: In 1995-96. There have been constraints over the last number of years, as you well know, constraints going into the year and constraints in-year, and ministries and organizations make their choices as to relative priorities of things.

My point was that the intent of the unified reporting project was not specifically related to improving with the issues referenced in the PA's report, but was in fact an initiative linked to the improvement of process for small business registration. Therefore, those linkages around unified reporting, we're looking at building them in a cheaper way that will allow us to get the management information that results from better linkages of databases as opposed to counting on the unified reporting.

Mr Gary Fox (Prince Edward-Lennox-South Hastings): What about the private sector being used for tax collection on a commission basis?

Mr Lawrie: Yes, I think that's something that we want to take a look at. It's been tried in a few jurisdictions in the USA, a few state jurisdictions, and it's also been tried I think in one other jurisdiction on a limited basis in Canada, a provincial jurisdiction. No one has entirely turned over their tax collection to the private sector, no jurisdiction has, and I think there are very good reasons why that doesn't happen. The potential for conflict of interest and the potential for perhaps—unless one was very careful in monitoring—abuse of the minister's powers under the tax statutes puts jurisdictions off.

But there may well be a place for some sort of privatization, particularly for accounts that we would otherwise be interested in writing off. That happens in the jurisdictions and states and the other one in Canada. They all use private collection agencies for that, and you find that anything they get, obviously, as it's on a commission basis, is found revenues. They would have written the accounts off otherwise.

The other very common area in which privatization is used in collections is where the taxpayer is now outside your jurisdiction, skips, as they're called in collection generally. There is a problem with a debtor who moves outside the province in the resources required to mount any effective collection effort. A private collection agency that is reasonably large and has operations in other provinces might well be more effective than the tax staff in these sort of situations. Does that answer your question?

Mr Fox: Yes.

The Chair: We've reached the end of our time allotted for this morning's session. I want to, on behalf of all committee members, thank you for appearing before us and answering our questions. The committee stands adjourned until a week from today.

The committee adjourned at 1201.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Thursday 14 December 1995

Jeudi 14 décembre 1995

*The committee met at 1008 in room 228.*1995 ANNUAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF FINANCE

The Vice-Chair (Mr Mike Colle): If I can bring the standing committee on public accounts to order. Our Chairman, by the way, is snowed in in Ottawa somewhere.

JACK MINTZ

The Vice-Chair: We have with us, from the University of Toronto, Professor Jack Mintz. Thank you very much for coming here today, Professor, and I would invite you to begin your presentation.

Dr Jack Mintz: I first of all want to thank you for your invitation to speak before your committee on the retail sales tax gap. I almost feel this presentation is doomed. Last week I appeared here to find out that the day was still Wednesday instead of Thursday in the Legislature as a result of last week's fun and games, and today I've appeared and I wasn't even sure we would be meeting, given the weather conditions. I want to thank you, actually, for your efforts in coming out as well. That's very good public service.

Let me first begin by saying a few words. As I told the clerk, I would not have enough time to prepare a written presentation, but I did prepare a few comments that I would like to say and then I'll be very happy to answer any questions you would like to raise. I have also prepared a table that I've passed out which is entitled Effective Retail Sales Tax Rates, and I'll talk about this later on, but you should have that table.

To begin with, let me just say a couple of opening words about what's meant by "retail sales tax gap." In fact, in some ways I really don't like concepts like tax gaps, tax expenditures, and the reason I don't like them is that they often convey the idea that taxes belong to the government and not to the people, in the sense that the government is entitled to have the revenues. In fact, sometimes one can argue that evasion could be good, because it's a good way of trying to lighten the tax load and reduce distortions in the economy.

I am sympathetic with the idea of thinking about what it is that's currently happening in terms of retail sales tax collections in Ontario, and for that we would like to have a better concept of what is actually happening in terms of why retail sales taxes just don't seem to be as buoyant in the 1990s as they have been in earlier years.

In terms of talking about the retail sales tax gap, I think it would be useful to distinguish between what I think are two important issues: One is evasion and the

other is avoidance. I like to think of evasion as illegal attempts at avoiding a tax. In other words, someone has a legal responsibility to collect the tax and fails to uphold the law. To me that is evasion, and that is a concern one has when it comes to taxation, because if there is serious evasion of taxes in a system, it undermines the whole voluntary compliance of the tax system which governments rely on in the western world.

With respect to avoidance, I think of avoidance as behaviour by taxpayers to avoid a tax but in a legal way. In other words, they are not circumscribing the law, but they are doing really what everybody does, and that is to try to avoid a tax when it's much higher than, let's say, other opportunities which are available to that person.

For example, if there's a very high tax rate on wine relative to beer and a person decides to drink more beer relative to wine in order to avoid that high tax on wine, then to me that's avoidance and it's perfectly legal. In fact, we economists think that's just behaviour where people try to substitute away from high-tax items to low-tax items.

To me, with the retail sales tax gap that was identified in the Auditor General's report, the important issue is evasion, not so much avoidance. However, from a policy perspective, one has to worry about both evasion and avoidance, and I'll raise that point later on at the end of my discussion.

In terms of the low takeup of the RST—and in the table that I've provided to you I provide numbers with the Ontario sales tax revenues since 1985—you can see that revenues increased, from 1985 to 1989, from \$5 billion to \$8.5 billion. Then, after that point, revenues actually started to decline and it wasn't until 1994-95 that there actually have been more revenues raised in 1994 and 1995 compared to 1989-90.

However, we have to remember there are two things that happened during this period. First of all, the retail sales tax rate was increased from 7% to 8% in 1988-89, so that automatically would allow for more revenues to be raised. Secondly, one has to recall that in the period around 1992-93 we had expanded the retail sales tax to include the taxation of insurance premiums, and that resulted in higher tax revenues being realized as well, which shows up in the last two years of the numbers.

This does suggest that retail sales taxes have been pretty flat, and in fact falling, in the 1990s. The question is, why has that happened? There are usually two arguments that might be given: first, that there's been a recession, as we all know, starting in the 1990 period and consumption and retail sales had fallen as a result of that

recession, and we know that would lead to less retail sales tax being collected; on the other hand, there's a strong feeling that a second reason for the retail sales tax to decline was increased tax evasion that occurred during the 1990 period, 1991 especially, when the goods and services tax was brought in.

There are one or two published papers in the Canadian Tax Journal, one of them by Peter Spiro of the Ontario government, who has provided evidence that retail sales tax collections did decline during the 1991 period, which he would attribute, taking into account other economic factors, that much of that decline was due to the inception of the GST, his hypothesis being due to increased tax evasion.

That's the reason, I think, that the Provincial Auditor of Ontario, quite rightly, thinks about the problems involved with auditing the retail sales tax and whether governments should try to improve—whether the government of Ontario specifically should try to improve its collection of the retail sales tax.

When you do look at these numbers, I think one gets a better feeling of whether there is a sales tax gap by looking at the third and fourth columns of these tables. What I've done here is I've taken retail sales taxes and expressed them as a percentage of retail sales—that's in the third column—and in the fourth column I've expressed retail sales taxes as a percentage of Ontario consumption. These two numbers were taken from data. The first set of data are simply retail sales that are reported in Ontario. This tends to be a much smaller number than consumption, and there are two major reasons for that.

First of all consumption, when measured by governments for national account purposes, will include all sorts of expenditures by individuals, such as on non-durables, housing, as well as expenditures they might make outside the province or outside the country. It will also include, probably, a number of services that would not get captured by the retail sales tax figures.

In the third column you can see that the retail sales tax as a percentage of retail sales is greater than 8%. For example, in 1994-95 it's 11.9%. The reason for that is that a lot of retail sales taxes apply not only at the consumption level, when consumers buy goods and services, but also at the business level, because retail sales taxes fall on business inputs.

In fact, roughly one third of retail sales taxes in Ontario fall on business inputs, and that affects the competitiveness of businesses in Ontario relative to the international economy and also creates certain distortions that are important with respect to how production decisions are made by Ontario producers in Ontario, because those business inputs that are more highly taxed will try to be avoided by businesses and they will try to use those inputs that are less highly taxed. Of course, it might create some competitive disadvantages of one business relative to another if one business has to rely more on business inputs compared to another business.

As you can see from column 3, there was a very significant decline in the retail sales tax rate as a percentage of retail sales, going from 1990-91 to 1991-92. It fell

from 11.3% to 9%. It would be very difficult to explain that without probably thinking of tax evasion as being the major contributor to that number.

When you look at the fourth column—this is retail sales tax as a percentage of Ontario consumption—you see that there are a lot of goods and services that are not captured by the retail sales tax in Ontario. When you measure it as a percentage of total consumption it's actually much, much smaller than the retail sales tax rate of 8%. In fact, it falls roughly between 4.5% to 5% of Ontario consumption. Again with these numbers, you can see there was a significant decline in the retail sales tax collections as a percentage of consumption in Ontario. From 1989-90 it fell from 5.5% to 5%, and from 1990-91 to 1991-92 it fell from 5% to 4.5%.

There are a number of reasons that will affect that—things like cross-border shopping with the United States, substitution away from taxed goods to other goods—that would lead to some of this decline. But probably most of it would again be roughly understood as lagging revenues likely due to tax evasion. So I think these effective retail sales tax rates tell a big story compared to just looking at the aggregate numbers, because once you start looking at taxes as a percentage of consumption, one gets a better idea of what have been the trends.

1020

These are some of the numbers that are quite useful, and now the question I want to raise is, what are the appropriate strategies for governments to deal with this?

The auditor's report quite properly goes into administrative practices, and that is one strategy in which a government could try to improve its retail sales tax collections and the fairness attached to it. More auditing, of course, can be successful in increasing revenues, and there are various tricks that governments can use to try to audit better the retail sales tax collections, but to a large extent we have to remember that additional auditing will require more administrative resources for the Ontario government.

There is a second strategy, and I like to think of this strategy as probably more appropriate in this case; that is, a change in policy. Because while one may want to concentrate on changes in administrative practice, to a large extent when a system is not working well it's much better to start thinking of changes in policy.

One change that could be adopted, and this has been adopted in many, many countries throughout the world, is to shift away from the retail sales tax—in some other countries it's been maybe taxes on manufacturers, but to shift away from the retail sales taxes, with the very high taxes on business inputs, to a province-wide value added tax. The advantage of a province-wide value added tax is that when one business sells to another business—both registered under the system—the purchaser can claim an input tax credit for any taxes on business purchases and use that as a credit against any taxes that it collects on consumers. So one converts from a retail sales tax to a system that's much closer to a tax on consumption rather than business inputs.

It also has the advantage of perhaps taxing services to a larger extent, and a VAT for that reason has been very popularly adopted in many countries as a way of trying

to achieve a better system where consumption goods are taxed at similar rates across different goods and services, as well as relieving taxes on business inputs. In fact, there are a number of federal countries where you find state-run or provincial-run VAT systems. For example, in Brazil the VAT, in fact the best-functioning VAT, is at the state level. One will also find in India discussions now about moving to a VAT at the state level as well.

This of course is one particular policy which Ontario could go on its own. There is a second policy which I think makes a lot more sense from the point of view of administrative savings for the Ontario government, and that's to harmonize the sales tax in Ontario with the federal GST and save for both levels of government significant administrative costs as well as achieving the important attributes of a VAT, particularly with respect to the taxation of business inputs.

I think this policy would be one that would be much wiser for the Ontario government to pursue. It would be wiser in the sense that there could be significant administrative costs associated with it, and at this time of deficit reduction and the need to curtail government expenditures it makes a lot more sense to move in this direction than simply to expand the expense associated with auditing.

My message to you as a committee and to those who deal with policy is that harmonization is probably the route for Ontario to follow and I would strongly advocate that this is the way to go.

Mr Bruce Crozier (Essex South): Thank you, Professor. I too am pleased that we've finally gotten together.

Just a couple of things: When you mention that a strategy would be to shift away from retail sales tax to a province-wide value added tax, I wonder if you could comment, in view of the fact that the GST, introduced federally, seems to be so hated. How do you think we could convince the buying public that they shouldn't evade these kinds of taxes and that it would be better from a public relations standpoint?

Dr Mintz: First of all, when the GST was brought in in 1991, the timing of it I think was quite inappropriate. It was brought in at a time when the economy was already going into a recession and there was significant taxpayer resistance to any new tax, which certainly the GST was, as it was replacing the manufacturers' sales tax.

In the case of Ontario, we already have a retail sales tax at the retail level so consumers are certainly well aware of it, and they've also now been dealing with the GST for several years, which has been the system now put into place.

One could conceivably bring in a joint Ontario-federal VAT system which, first of all, under provincial powers, legal powers of property rights under the Constitution, would allow the tax to be hidden in the price as opposed to being expressed separately, which is a point of irritation for consumers because you buy a good and you see the price and then you run to the retailer and you have to tack on another 15%, which is an irritation. So that's one thing that could be done that I think would help dispel some of the aggravation with the VAT.

The other point that could be very useful is that the VAT could be levied at a lower rate, at a combined lower rate, with some of the revenues made up with another type of tax. This of course might improve the acceptance of any joint system. On the other hand, right now at a 15% rate there would be a little bit of revenue that the Ontario government could pick up under a joint sales tax of 15%, and that of course could help fund any deficits that are faced by the Ontario government.

Mr Crozier: As you are probably aware, Professor, the finance ministers of the provinces have been meeting with the federal government over the last couple of days and, quite frankly, I didn't get a chance to read the newspaper reports this morning, but I can see at least by the headlines that this is meeting with some resistance. In particular, we're interested here in Ontario that Mr Eves, our representative, has indicated that it would cost the taxpayers \$3 billion more, I think, although I suspect that there's some way of putting the two together that would be—a political term we always like—revenue-neutral. But there seems to be that resistance by the provinces right now. Are you familiar with that, and would you care to comment on that, please?

Dr Mintz: I just want to make sure I bring up one point before I forget. Let me first of all say that my understanding is that the Atlantic provinces are willing to go into an agreement on a joint federal-provincial sales tax and run it basically as a regional tax in the Atlantic provinces, which I think makes an awful lot of sense for them. They really don't want to pay for the heavy administrative costs of running their own retail sales taxes. This could be a very significant benefit to the Atlantic provinces in reducing some of the costs associated with it.

With respect to Ontario, Manitoba, Saskatchewan and BC, I know negotiations are taking place, and whether they will be successful or not will largely depend on the political will of individuals to deal with that.

I think the most significant issue is the one that the Minister of Finance in Ontario has raised, and that is the \$3-billion question of whether consumers will pay \$3 billion more in taxes. The problem I have with that argument is that we have to remember that, really, businesses don't pay taxes. It's people who pay taxes in some way or form. There may be a tax on a business such as retail sales taxes on business inputs, but either it has to get shifted forward in terms of higher prices to consumers or it has to get shifted back into lower wages paid to workers or lower returns paid on capital. Something has to happen with that tax. It just can't be swallowed by business, and that's because business is just a piece of paper, really, as a legal entity. It's people who actually pay taxes, all forms of taxes, in society.

1030

Of course, the incidence issue is very important. In my view, in work that we've done on looking at how taxes are shifted forward in open economies like Ontario, maybe half of retail sales taxes on business inputs are ultimately shifted forward on to consumers and the other half back on to producers. This is based on some work that I've done recently in a study on environmental practices with respect to waste management.

The interesting thing about that kind of number is that it does tell you that consumers will pick up some of the tab, there's no question, with a VAT. The consumers are also producers. People work in society. If businesses in Ontario could be made much more competitive by having a reduction of \$1.5 billion in their taxes on business inputs, that could be very important in terms of jobs and other things that I think people in Ontario are looking forward to, and that is a very significant opportunity to have more wealth generation in this province.

I think it's very important at this point for Ontario to really think of moving in this direction, because on top of all these particular changes I've raised, there's also the significant administrative benefits of moving to a joint federal-provincial VAT system.

Mr Toni Skarica (Wentworth North): One problem I'm having with your suggestion is that when you bury taxes, there's no incentive on governments to ever reduce them. For example, gas taxes: When you pay gas 50 cents per litre, I think almost 80% of that is taxes, but you don't know it until you go to some place like the United States and you pay half for a litre of gasoline of what you pay here.

My problem with your suggestion is that at least now I hated the GST when it came in. I myself did not buy anything for about three months because I just hated it so much. But at least I know it's there. When I buy something now I still pay that 15% and still hate it, and then there's an incentive to reduce it, but if you bury it you don't see it and then there's no incentive on governments to ever reduce taxes. I just want your comment on that.

Dr Mintz: First of all, I agree with you that by burying it you take away some of the political visibility associated with the tax. Certainly that's the argument for having it quoted separately. The reason I suggested burying it isn't a bad idea is that most of the polls and studies that have been done about the views people have had towards the GST, and the retail sales tax too, although there's reasons it's had to be quoted separately, is that people have been aggravated just trying to deal with transactions where you see a price at the counter and then when you take it to the vendor at the cash machine they have that price changed on them and they're not sure whether they have enough cash or whatever. So that's been a significant complaint.

One of the things that could be done to at least maintain the political visibility, which is unlike the gasoline tax, is that it's still important on the invoice to quote separately the VAT rate. If you don't, it's going to be harder for businesses to calculate the actual input tax credit they get under the VAT system. So I would sort of take a position somewhere in the middle: You include it in the price but then still on the invoices indicate separately the tax. That will still maintain some political visibility, but even for administrative practices there will be an important benefit to people who have to comply with the system.

Mr John Hastings (Etobicoke-Rexdale): Professor, could you elaborate on or recommend at what rate you would see the province setting a value added tax? Is it close to the Brazilian rate, or would it be the same 8% as the existing retail sales tax?

Dr Mintz: At a 15% tax rate right now, my understanding is that Ontario would pick up a little bit of revenue associated with a joint sales tax. In other words, by expanding the tax to include all goods and services, which is a larger net under the value added tax, the additional taxes one collects are a little bit more—by a few million dollars I understand—than the taxes on business inputs that would be lost as a result of moving to a combined federal-provincial VAT system.

Then the question just becomes, what rate do you want to move to away from 15%? If you want to move to 12%, for example, and if the federal government reduced its rates a little bit and the province reduced its rates a little bit, which was one proposal at one time, and then the federal government was suggesting a flat income tax to make up for revenues, then certainly that will mean lot lower collections at both levels of government. To me, it's very much just a negotiation point, and I don't have strong views since I would sure like to leave that to the politicians to decide.

Mr Hastings: Do you think the value added tax rate should be the same as the existing—

Dr Mintz: The 15% rate?

Mr Hastings: —8% Ontario sales tax?

Dr Mintz: Yes. I think you could keep it at 8, but if you want to lower it to 7 you could, but you'll have to make up some revenue with it at a 7% rate.

Mr Hastings: What is your research with respect to the so-called significant administrative cost savings regarding an integrated or harmonized retail sales tax and GST? Do you have specific stuff you could leave with us?

Dr Mintz: No, I'm sorry, I don't have. Those are numbers that I've seen in studies in the past. The point is that we've seen this under personal income taxes, where we've had joint collection at the federal and provincial levels of personal income taxes. It does significantly allow for reductions in compliance cost for the private sector because they only have one form to fill out instead of two forms. It also leads to significant savings in administrative costs for governments, because you don't have two administrative bureaucracies trying to deal with the tax rather than just one.

There are a couple of studies that have been done on this, including by the Canadian Federation of Independent Business which has done work in the past. Yesterday, the Canadian Institute of Chartered Accountants released a study, and they've done some estimates of their own. There's a very good study done by François Vaillancourt for the Canadian Tax Foundation in a book called *The Administrative and Compliance Costs of the Personal Income Tax and Payroll Tax System in Canada in 1986*. So one could get at least a feel for potential administrative savings.

Mr Hastings: One final query: When the province raised the retail sales tax some years ago to 8%, does your analysis or research indicate how much leakage of revenue occurred as a result of that 1% rise from 7% to 8%, whenever it was, 1988 or 1989—maybe it was earlier?

Dr Mintz: No, I haven't tried to do that.

Mr Hastings: Do you generally think that there is significant leakage when a government raises its RST by one full per cent?

Dr Mintz: I'm not sure if 1% would lead to significant leakage per se. I have not tried to calculate that number. A study that was done on the changes in 1990-91, Peter Spiro's study in the Canadian Tax Journal, looked at a goods and services tax that went from essentially zero to 7%, which was a very large change. With the kind of work that he did, he suggested that there certainly was significant leakage at that time when it came in.

One of the things that happens, I think, is the psychology of all these tax changes, that when you have a very big change like that, people then all of a sudden start accepting the idea of evading a tax, which they didn't before. One of the lessons that people found in the literature on tax evasion is that you have asymmetric responses, that if you raise taxes considerably you may encourage a lot of evasion that didn't occur previous to that time, but if you lower the tax rate back to the original level later on, it doesn't have the same impact on tax evasion. In other words, people, once they get used to the idea of evading taxes, stay working at it.

I've always taken the view that significant changes in tax rates can lead to more evasion and if you try to reduce them later on, unfortunately, the psychology of it is that you're not going to get as much gain as you would like to get by reducing evasion. We even saw that with the cigarette taxes recently.

1040

Mr Marcel Beaubien (Lambton): Professor, with regard to the charts you provided us, if we look at the years 1991-92 and 1993-94, the retail sales tax as a percentage of retail sales in 1991-92 was 9%. If we compare it to the line in the next column, it was the equivalent of 4.5% of Ontario consumption. If we look at the year 1992-93, it's 10.6% and its relationship is 4.3% and then in 1993-94, it's 11.2% and as the percentage of Ontario consumption it's 4.6%. But if we take that line and bring it up to 1988-89, where it's 11.1% and 5.4%, why is that aberration there? Is there a shift in the tax?

Dr Mintz: No, actually it wasn't so much the shift in the tax. For some reason, 1992-93 retail sales were very low in that year, while the consumption numbers actually increased.

Mr Beaubien: The final question that I would have is that you mentioned about strategies; one was more auditing and then you gave us a change in policy, a shift from RST to a provincial-wide VAT, and then the harmonization.

In your opinion, which is the least favourable or the least interesting, I guess, of those four?

Dr Mintz: Of those three or four?

Mr Beaubien: More auditing I would consider as another strategy, and then on the second strategies you had A, B, C.

Dr Mintz: Okay. I state VAT and harmonization, so I have an A and B. I'm just wondering what the C was.

Mr Beaubien: Okay. Well, out of the three, then; all right.

Dr Mintz: If I was ranking, I would clearly put harmonization at the top. Running a provincial-wide VAT has certain advantages over the RST, even with more administrative work under the RST, in that you deal with the business input issue for taxation purposes and the competitiveness issue better and you have a more even rate of tax on different goods and services at the consumption level, so it's therefore a little less distortive.

The one negative thing about VAT, which I didn't mention earlier on, but certainly I always talk about it when talking about the gains and losses associated with different taxes, is that the VAT does have a lot more paperwork because you're having more businesses as part of the net. That's one advantage of the retail sales tax over the VAT system, that under a VAT every business, except for maybe the very small ones, will be collecting and remitting taxes to the government, while under the retail sales tax, it's mainly businesses at the final stage that will be doing that.

That's one advantage of the retail sales tax over the VAT system that I see, but I think I would tend more and more to the view that perhaps, from the point of view of international competitiveness and job creation, Ontario should seriously think about moving to a VAT system.

Mr Bill Vankoughnet (Frontenac-Addington): Earlier you mentioned about the tax going from—well, a new tax—0% to 7%, but I just want to caution that actually it was really a replacement tax. It was the old manufacturing tax versus a new tax, a value added tax, and it was replacing something anywhere between probably 13% and 30% in some cases. I think it's important we keep that in mind, that even though it was a new tax, it was revenue-neutral, so to speak; again, a term that's used.

Now I'm wondering really with the attitude of the people out there, if we can really sell in the minds of the public, whether we should be talking harmonization. We talked about that earlier, in the early 1990s when this was brought in to try and harmonize it. But even if you hide it, such as many countries do in Europe, Italy being one, where they put it up front on the price and then your sales slip does show it, as you say, but nevertheless there's a mindset with the people that they hate paying this tax when they buy something. They're going to see it one way or the other.

Is there not a system that we could put in place, whether it be an income tax system or whatever, that we wouldn't need such a variety or such a number of different taxes? Could we not lessen the amount of taxes we pay, the different types of tax, at the local level, whether it be property taxes or business taxes or whatever? Could we not harmonize some of these taxes all across the board, whether they be federal, provincial, municipal, to make the system less complicated, easier to comply with and not have as many people necessary to administer it? Is there not something we could do in that line?

Dr Mintz: Let me just make one point about the manufacturers' sales tax. Yes, I'm quite conscious that

the GST did replace the manufacturers' sales tax. We have to remember, though, that the manufacturers' sales tax was hidden, while the GST was there for people to see more carefully. Also, at least in the short run, when the economy was in a recession, the ability of businesses to pass on savings from the manufacturers' sales tax was less during that recessionary period when the tax came in.

In fact, a lot of the work that was done initially assumed that the manufacturers' sales tax was fully shifted forward on to consumers and that the prices would go down fully by the manufacturers' sales tax, and the GST, which was revenue-neutral, would simply just add on and the total effective tax rate wouldn't change.

That assumption that was used in these calculations was grossly incorrect, because the manufacturers' sales tax was also a tax on business inputs, and one of the lessons we know from economic theory is that when you have a tax that falls on business inputs, and potentially on exports, it doesn't get shifted forward to consumers. In an open economy it tends to get shifted back on to producers.

So when one actually looks at the total impact in 1991 when the GST came in, the effect of the GST was to perhaps raise the level of taxes to the order of at least 2% according to some calculations, like the Institute of Policy Analysis at the University of Toronto, close to two percentage points at that time once you take into better account what the impact of the manufacturers' sales tax would be on prices.

Of course, in terms of visibility, people looked at it as a major tax change, not just two percentage points going up, because they didn't see, necessarily, all the prices going down. In fact, the prices that were to go down were mainly durable expenditures like automobiles and refrigerators that people don't go out every day and buy. They're big in terms of our total consumption, but for everybody their usual daily consumption are things like services and haircuts and that sort of thing, and all they saw was 7% tacked on right away. So those are some of the problems that one has to deal with even in the current context of moving from a retail sales tax.

I do agree with you about the mindset, and of course there has been some discussion about flat taxes and an expenditure tax at the income level. You can have a direct personal tax where you tax the earnings of an individual and then let a person deduct their savings from the base. In a lot of my writings I've been a very strong advocate of expenditure taxation as a very reasonable way of dealing with what I think are a number of equity issues and efficiency issues involved with taxation policy, as well as simplicity.

Now, how successful is a flat tax going to be? The problem in relying on only one single tax base, like an income base or expenditure base, is that you load all the taxes on to that one base, and if there's any evasion that's going to go on, it's much easier to evade just one tax than to try to evade many multiple taxes at the same time. That's one argument, really, for trying to have different levels of taxes. It makes sure that, let's say, if someone's evading their income tax, at least they're going to get hit by a consumption tax when they go out

and spend the money, or if they own a house they'll get hit at least by the property tax.

I think it's kind of pie in the sky that we're going to put all taxes into one single regime, but I do agree that there's a need for simplification and perhaps one of the ways of going about that is looking carefully at the income tax and what we're doing with it.

1050

Mr Skarica: If I could just take you to this chart, Effective Retail Sales Tax Rates, there seems to be a change in the relationship between the RST as a percentage of retail sales and the RST as a percentage of Ontario consumption.

If you go to the right-hand column, you'll see that for those first four years that you have on the chart you double it. You basically get the RST, the same figure, 4.7%, for example, in 1985-86. You double that; you get 9.4%. It's 4.8% in the next column; double that and you get 9.6%. But over the years, I see in the 1990s that relationship changes and in the 1992 through 1995 years, if you take, say, 1992-93: 4.3%; double that and you get 8.6%. That's a two-point difference between that and 10.6%. That continues on through the rest of the 1990s. That's a change in the relationship of about 20% to 25%. That's a significant change. Can you tell us why that's happening, or do you have any information as to why that's changing?

Dr Mintz: I'm not quite sure. I think your question's a good one, but I can speculate on one important aspect, and that is, the taxation of business inputs to the extent that retail sales tax falls more on business inputs and it's not getting captured by retail sales as much, as a base. So the effective rate is going up, in a sense, relative to the consumption rate, if you had the proper consumption measure; for example, insurance taxation. A lot of insurance is bought by businesses, not just by individual consumers, and that really increased to a significant degree the level of tax on businesses, and that would show up starting around 1992-93.

Mr Skarica: So your speculation then is that it is a reflection of increased taxation on businesses?

Dr Mintz: Perhaps, but I have to admit I haven't really studied the numbers. In fact, I spent some time talking to someone in the Ministry of Finance yesterday just on these retail sales numbers, because I didn't really quite understand them myself very well in terms of what they're actually capturing. It seems to be that they're capturing a much narrower base compared to what's measured as consumption in international accounts.

The Vice-Chair: Any further questions? Thank you very much, Professor. It certainly has been very helpful in dealing with a very hot topic, as you know, with the finance ministers in Ottawa. Some of the areas we're dealing with are certainly very much on everybody's minds. So maybe this will help us in giving forth some new points on what some of the recommendations should be to deal with this problem of evasion and avoidance. Thanks very much for coming.

Dr Mintz: You're welcome, and thank you.

Mr Crozier: Mr Chair, just before the professor leaves, I'm sure research has this down, but you men-

tioned the CFIB and the Canadian Institute of Chartered Accountants, and I think someone else who may have some reports that would be valuable to us and perhaps we could ask research to get so you've got those things.

The Vice-Chair: Excuse me, Professor. Mr Peters would just like to make a comment or ask a question.

Mr Erik Peters: Professor Mintz, I'm interested in the comment that you would rank harmonization with the federal GST as the first among the strategies that you're suggesting. We are running actually quite a relatively efficient collection system in terms of administrative effort per revenue dollar collected. Do you have any statistics on how well the GST is doing in this regard?

Dr Mintz: Those numbers have been reported in various studies. As I mentioned earlier on, it's well known that the difficulty with the VAT system—and its biggest cost is that every business is really a part of the net, and so the compliance costs become larger as a percentage of revenue is collected under VAT, which I think is a negative in terms of, let's say, Ontario switching from a retail sales tax to just a province-wide value added tax without harmonization with the federal government. The gains in administrative costs I think would only be on the harmonization side, if there was a harmonization, because then you can have one bureaucracy instead of two and that's bound to have some administrative savings in that way.

Mr Peters: The point I'm concerned about is there was recently a hearing before the finance committee, or some such committee, that deals with this at the federal level, and they were indicating that the combined gap—I understand you don't like that word very much, but I find it is very effective shorthand between what people feel should be collected and what is actually collected—that that gap for income tax and GST combined—and I didn't get a breakdown of it—is in the \$5 billion per annum range for Canada.

One of the reasons cited was that the GST is relatively difficult to administer because of the GST credits that go in, the much more depth that has to go in. The second point that is being made is that it, of course, puts a lot more administrative burden on business itself because of tracking.

I was, at the time when the GST was introduced, in a corporation that was subject to GST, and the cost to us of operating a system that actually was tracking the input cost of GST and the output cost of GST was quite astonishing. It virtually destroyed the entire budgetary system of the corporation as far as looking at goods and services purchased. So there is a shift and there is a cost to business of this fact. Would you like to comment on that?

Dr Mintz: Yes. First of all, I think a large part of the costs were startup costs as opposed to ongoing costs from the work that I've seen done and what people usually talk about.

I'm just trying to remember; your first point was on the—

Mr Peters: It was that the GST is certainly a more complex tax to collect than the RST is.

Dr Mintz: And the efficiency of doing that—the reason the RST is relatively efficient in the way it operates is because it's such a lousy consumption tax. If it was a really good consumption tax, the way the RST should be operating is that when a business buys a product from another business it can show its exemption certificate and get relief from the tax. This is called the "suspension method" under the sales tax system where it allows a business to basically avoid paying tax on the business input.

Now, if the retail sales tax was going to really operate as a true consumption tax, consumption on consumers rather than a tax on business inputs, there would be a lot more exemption certificates provided and made use of, as well as a lot more problems with respect to auditing that would be faced by the government.

It's true that the system is maybe more efficient, but it makes it also a more lousy retail sales tax from an efficiency point of view. That's the tradeoff, I think, between the VAT and the retail sales tax, that the VAT is more costly for business—although they're doing it already under the federal system, so if you had a joint federal-provincial one it's not going to make a big difference, it's already there.

When Canada changed from the manufacturing sales tax, let's say, going to the VAT, the VAT was clearly more complex and more difficult for businesses to comply with. Absolutely; no question about that. On the other hand, it was a better functioning tax than the manufacturing sales tax.

It's the same thing that the province would have to make up its mind on, and that's why I like the harmonization route because you could take the full advantages of the compliance costs that are already there for the GST, so if you have an Ontario tax that's joint with the GST or a joint VAT, the compliance costs aren't going to change that much. Secondly, one will get away from what I think are the lousy features of the retail sales tax.

Mr Peters: I just regret that there's nobody here from the Ministry of Finance to hear your comments.

Dr Mintz: They've heard me.

The Vice-Chair: We'll pass that on to them. We'll make a point of passing that on. Thank you very much again.

1100

ANTHONY DOOB

The Vice-Chair: The next witness is Professor Anthony Doob from the University of Toronto, Centre of Criminology. Welcome. Thankfully, U of T is just across the street, if you came from the school.

Dr Anthony Doob: Thank you very much for inviting me. As you mentioned, I'm a criminologist at the University of Toronto, and although I've done some research on income tax evasion, I haven't done work on compliance with retail sales and I think that my comments have to be understood in that context. At the same time, I'd suggest to you that a general understanding of the compliance with laws of this sort should be important for this committee in considering how it should approach what we presume to be an important problem.

There are really two important points that I want to make. You have my written comments, I believe, that I prepared for you last week, so I'll really just briefly summarize them. The first is that I believe that the Provincial Auditor, and more importantly the retail sales tax branch of the Ministry of Finance, would benefit from carefully considering an overall approach to compliance. This approach to compliance would be broader than simply an approach which talked about auditing and finding people who are evading. I'm suggesting that if the branch had a reasonable theory or reasonable approach to compliance with the retail sales tax, the branch would be in a better position to develop an integrated approach to increasing compliance with these laws.

The second point is really related to that which is that the ministry's tax compliance strategy should integrate research into the everyday operations of the retail sales tax branch. The marginal cost of research that's integrated into the everyday operations can be very, very small. What's needed is a mindset within the branch that assumes that continuing experimentation, evaluation and improvement of its activities designed to increase compliance overall should be central to the branch's mission.

My feeling is that neither the ministry nor apparently the Provincial Auditor appear to have a well-articulated theory of compliance with the retail sales tax. Instead what the branch has are procedures in place to address some forms of non-compliance. In suggesting the theory would be useful, what I'm really suggesting is that it gives you a framework for thinking about it and thinking about how it is that you should be approaching this whole problem. Without simply saying more of the same, we should do a little bit more, we should shift our resources in a particular way.

I suppose my starting point is that my view is that compliance is best addressed not through a series of time-consuming audits. If we're really looking at it for an analogy, what we should be looking for is an analogy with crime prevention. The best way of dealing with crime is to prevent it in the first place rather than to find people who have done crime after they've done it.

Audits are expensive for the province; they're expensive for the various people who are being audited, but what we're really looking for is something beyond that. Obviously, part of the difficulty is that simple approaches like increasing punishments by increasing penalties, removing business licences, whatever levers are available, will be effective only if they're perceived by people to be likely to occur to them.

I think that the simple approach of saying, "Well, let's deal with the broad problem of tax evasion or of retail sales tax evasion by increasing penalties," will work if people see that there's a reasonable likelihood that they're going to receive those penalties, but if they are successfully evading the taxes at the moment, fiddling with the penalties will really do very little.

What I'm suggesting is that one part of a theory of compliance would be not to focus exclusively on catching people who are evading taxes, but to address the question of the perceived likelihood of apprehension. So what we

would want, presumably, would be a real penalty at the end, but what we really need, in order for that penalty to be effective, would be for people to believe that there's a reasonable likelihood of their being apprehended for their tax evasion.

Doubling the number of auditors might be cost-effective in a particular way, which is that more money might be found from people who are evading taxes, but it may not be the most efficient way of reducing overall tax evasion. What one would want would be either systems in place which would make tax evasion less likely to go unapprehended or ways in which one would increase the likelihood that people would perceive they're going to be caught for this.

In general, what I'm suggesting is that the response we give or the province gives to a crime such as tax evasion gives an overall message about how important it is, among other things, and that we should really address those broader issues, not instead of but really in addition to the issue of evasion.

When I looked at the auditor's report and the ministry's response to it in determining what it is they should be doing, the problem I saw was that there was a focus very much on apprehension rather than compliance. As I've already said, the distinction's an important one and the shift, which I think could be effective, or at least more effective, would really involve a shift towards compliance, away from apprehension.

Let me give an example, and it's in the written material so I won't go into it in detail. There's some evidence from other jurisdictions that certain kinds of audits have a peculiar effect on the likelihood of future compliance, that an audit of a particular person—I'm really talking about income tax, so you're going to have to hope there's an analogy to the sales tax problem—may, for example, find undeclared income or it may more likely, in the income tax area, find deductions which are inappropriate.

The tax collector may then get some money. If you look at the money recovered and compare that to the money expended, you may find that there was a profit to the tax collector from this activity. But what's ignored in that approach are really two things: One is whether we're missing opportunities to convince other people that they are likely to be caught, but also you're ignoring the long-term impact on that particular taxpayer. The impact on that taxpayer may be that the taxpayer has actually learned from the audit where he can get away with income tax evasion, or with tax evasion more broadly, so you give away a little bit to the tax person but you also find the areas where the auditor was unsuccessful.

There are ways to assess this, and really that's my second point which I go into in some detail in the written comments, and that is, one way to approach these problems of how best to collect retail sales tax, if that's the goal, in the long run overall is really to adopt an experimenting attitude. When I read the auditor's report, or when I read the responses to it from the retail sales tax branch, obviously one of the concerns is one of resources, how much resources should be put into this.

One of the ways to see whether the resources are being used effectively is to take advantage of the fact that the

tax collector doesn't have the resources available to audit everybody or to do all the kinds of things that the branch would like to do.

That means that instead of targeting particular areas and going in and looking at the amount of money that was collected you simply take an experimenting attitude and say: "We're going to compare different approaches—different approaches in different municipalities, different approaches with different kinds of taxpayers—and we're going to look not so much, or not exclusively, at the amount of tax recovered, but we're going to look to see what happens with that taxpayer or people associated with that taxpayer or people in the same geographic area, or whatever one's theory is about the impact of this. We're going to be able to compare the amount of tax paid, because ultimately that's what we're interested in. We're not so much interested in how much we collect from this taxpayer today as much as we are in how much tax the province gets overall from similar taxpayers or from this taxpayer over some period of time."

If you have a comparison group that hasn't been receiving this kind of special treatment, it's actually extraordinarily straightforward to find out what the long-term impact is not only on this taxpayer, but on other taxpayers. What I didn't see in both the auditor's report and in the branch's response to it is an approach which looks to the long term, which looks to the problem of tax compliance overall, rather than looking to finding people who are evading taxes. I was very seriously discouraged by the lack of imagination the ministry showed in its response to the suggestion from the auditor that there be additional research.

1110

To remind you, the ministry's response was that it agreed in principle with the recommendation that there be additional research. They mentioned an agreement with Revenue Canada that refers to this objective and then they talked about how they would do more when their computer system was working.

Quite frankly, I found that completely inadequate. I found it inadequate because it seems to me that as long as the province believes it should be collecting taxes through this particular mechanism, I believe it's important for the auditor to encourage the branch and for the branch to respond in such a way as to say: "Look, we're looking for different ways, we're looking for effective ways to do this and we're experimenting constantly and immediately integrating the results of this research into our strategies, to look for ways of increasing compliance with the tax overall."

The branch has a measure which is very straightforward and it has the ability to do the kind of research which very quickly could lead to an improved use of its compliance resources.

For example, when the question comes up in the report of small-scale audits, the question of how best to do those, how to deploy resources should be looked at in this way: Look at it as a problem which is not going to be solved by a bunch of people sitting around a room. It's going to be solved by a group of people figuring out what the best strategy would be in the long run.

My supposition is that the retail sales tax branch of the Ministry of Finance has some very talented people who would be able to articulate very sensible and testable theories of how overall compliance would be best increased. No theory and no strategy is going to be perfect, but if I had been the Provincial Auditor, what I would have done is made two clear recommendations.

The first is that they should think seriously about an overall compliance strategy. It doesn't need to be a long, tedious academic exercise. I'd suggest exactly the opposite. Some careful and creative thought and exchange about how to do it, it would seem to me, would be a good place to start.

The second is that those ideas should be immediately tested in an experimental way where you go out and see what the impact is of one strategy as compared to what's going on at the moment.

I would urge the committee, instead of endorsing a more-of-the-same approach to tax compliance or more auditors doing exactly the same as they're doing at the moment, to look to ways of fostering a broader and more effective way of approaching a very serious problem. The kind of research I'm suggesting that could be done and really can only be done by people within the ministry need not be complicated, need not be long term. This is work that could be done very quickly and could be turned into action very quickly.

I have more elaborate comments, as you know, in the written statement, but I'd be happy to answer any questions you might have.

Mr Crozier: Good morning, professor, and I'm pleased to have you with us. On page 4 of your written text under "What should the focus be?" you say, "Not necessarily pictures in the newspaper of tax cheats—though it is not clear why one wouldn't treat tax cheats the same as we treat any other ordinary criminal."

I would suggest that someone who decides on a life of crime, let's say theft, perhaps may be even considered a professional. They know the risks. They know the benefits that can be derived from it. When they go about that and they're caught, we in many instances put them in jail. What I'd like you to comment on, when you say it's not clear why one wouldn't treat tax cheats the same, is that are you saying you really don't know yourself how they should be treated, or could you comment on a tax cheat who steals from me, because I'm the other taxpayer who doesn't cheat, and how that should be treated in the way of penalty?

Dr Doob: The issue is that I would see economic crimes against the government as a broad category of offences and it would seem to me that we should have an approach which deals with them in a fairly similar way. This is a somewhat separate issue, but I think the argument is that one can cheat the province of Ontario in a variety of ways: by evading income tax, by evading sales tax, by stealing from the province, by claiming benefits one is not entitled to; all of these are ways of cheating the government, of committing an economic crime.

For what I would call ordinary crimes, we're not very good at it but we actually do have an idea that what we should be doing is trying to dissuade people from committing those offences. One of the ways we do it—as I

suggested, we don't often go about it in a very effective way—is to try to convince people that they'll be caught.

The most obvious example of this in criminal law are the attempts by the police, usually unfortunately located at particular parts of the year, to catch people who are driving while impaired. That's really a deterrent strategy rather than an apprehension strategy. We know in December that there are more police resources, or we believe in December that there are more police resources being used for this purpose. So we have an overall strategy and when we do apprehend people for these kinds of offences, we publicize it, we publicize the RIDE program in this province, in part to try to convince you and me not to drive after we've been drinking.

One of the problems is that if you have a strategy for tax compliance which doesn't let people know that people are being apprehended and are being punished and the punishment is a very real one in terms of their own reputation, it seems to me you're losing whatever deterrent possibilities are out there.

What's important in deterrence, and we know this over and over again in criminological research, is that people have to perceive that there's a likelihood of apprehension. Well, I've never heard of anybody being penalized or being stigmatized in the same way that they are for criminal matters—let's say, in my case, since I'm not a vendor—for actively participating in or encouraging the evasion of sales tax. I've never heard of that. I assume there are some, but if I had to point to a single instance I couldn't find it.

So I'd say: "What's the probability of being apprehended for evading these kinds of taxes? It must be extraordinarily small." I may be right, I may be wrong, but it's my perception which is going to guide my behaviour. I'd suggest we should approach that as a question, how we should think about it. I'm suggesting obviously that what we should be looking for are ways to get us all to comply so that we don't have to go after the bad guys.

Mr Crozier: When some honourable citizen wouldn't go up to the provincial till and open it while there's no one around and take \$100 out, whereas a law-abiding citizen will participate in the evasion of tax by dealing in cash, could you comment on how you feel the public feels about this?

Dr Doob: A few years ago, as I mentioned, I did some work on an income tax evasion and what we found was that if you ask people, "If you cheat the government for \$1,000 through income tax"—I don't imagine it would be any different for any other kind of tax—"how bad is that, as compared to taking it out of the till from the government?" It's the same amount of money, and so on. What happens is that of those people who see a difference, it's about nine to one who see the tax thing as not very serious.

That's the difficulty with that. There's one other crime I can think of aside from, broadly speaking, tax evasion that's like that and that's smuggling. We joke about smuggling and so on, but one can look at that in a very similar way.

I think the difficulty is that we as a province have policies in place which encourage that, and we always have. We will spend an enormous amount of resources prosecuting the person who steals something from the government or claims unemployment insurance or claims welfare inappropriately. Those are crimes; I have no difficulty calling those crimes as well. But if somebody evades sales tax by similar amounts, we deal with it as if it were the same as a parking infraction.

1120

I don't think you can get people to take it seriously as long as we say it's all right, that it's just like a parking infraction. I go and I put my loonie into the meter and I come back an hour and a quarter later and there's really no problem as long as I don't get caught, and nobody sees it as a serious problem. I don't think that one happens to be a serious problem. If we want tax evasion to be seen as a serious problem, we have to treat it in a serious way. I don't think it's very complicated.

Mr Crozier: I suspect that many of us know people who consciously avoid tax by dealing in cash or whatever way there might be. I would even be surprised if some of us didn't have that opportunity presented to us, and then it's a question of conscience. I get the feeling that a crime such as this against the state is not quite the same in their minds as a crime against your next-door neighbour.

Dr Doob: No, but I think it's more than that; I think it's particular crimes against the state. As to your initial example, there's no question that stealing \$1,000 from the government by not paying your tax is not seen as serious as stealing the \$1,000 from the neighbour or from a corporation. But in addition, it's the way you take the money from the government. If you take it by not paying taxes, it's just not seen as serious as taking it by walking out of the building with something valuable.

There's something very peculiar about tax, but as I said, I think we also have to take some responsibility. There's something very peculiar about the way in which the government deals with tax. I think you don't deal with it as if it were a serious problem.

I just want to make one other point, and it really does come down to this question of looking at compliance. I guess it came up in listening to Jack Mintz talking about these issues. If you're looking at an overall compliance strategy, you also have to remember that in terms of evasion of retail sales tax, it's probably the case that the province is also losing an enormous amount of money through that mechanism of a cash economy and a deal to evade the retail sales tax, but the province is also losing money through the income tax system because that money never gets seen by the income tax. If a vendor says, "Yes, I'll take cash, and you don't have to pay the GST and the provincial sales tax," that money is cash and it also doesn't go into income. The estimates of what's gained by a compliance strategy are probably enormously underestimated.

Mr Crozier: Just one more point, if you wouldn't mind commenting: Having once evaded tax, even if we attempt to change the public mindset, how difficult is it to get me, the tax evader, back on track having once accomplished it, even if the tax is reduced?

Dr Doob: I think the issue you heard from the previous witness is the problem. I would agree with him that the difficulty is that once you start people into a particular expectation about how things are happening, it's going to be very difficult to undo.

The problem you have is not going for a perfect system but going for a better system. What you have to do is to look for ways of increasing overall compliance and say, yes, we've lost some people, but what you may be able to do is say, if we knew where we were losing, what kind of money we were losing and the way in which we were losing it, maybe we would find other mechanisms to plug up those holes.

Let me just give an example, and I'm just talking to you about how you do this. I've always wondered why the provincial government, or in fact why Revenue Canada, any tax collector, doesn't go up to a group of taxpayers, starting, let's say, January 1, 1996, and say: "By the way, you know we do audits. We're doing a new kind of audit now. We're going to tell you in advance that you're going to be audited for the first four months of this year, and we want you to keep a special kind of record. It'll save us all time—save you compliance time and save us compliance time."

If you were such a retailer or taxpayer, whatever it might be, in that circumstance you say: "From January 1 until May 1, I'm going to have to keep pretty good records. They're on my case. I'd better walk the straight and narrow and pay all my taxes."

If you do that to 500 taxpayers and you have another 500 equivalent taxpayers you don't do it to—you don't have enough resources to do it to everybody anyway—one of the things you can find out is where you're losing your money. Those people whose case you're on originally don't have an enormous incentive to evade; they have an enormous incentive not to be caught during that four-month period and they can see the end of the road at the end.

You have a very good idea, then, as to where you're losing your money. What you may be able to see at the end of this process—you're talking about a four-month process. You look at your information, you see how much tax they've paid—they're undoubtedly going to be paying more tax—but you've got an enormous amount of information about where you're losing it. Then you say, how we can deal with that? These are folks who have been evading for a long time, and lo and behold, they're paying more taxes for this four-month period when the retail sales tax branch is on their case.

It's not rocket science to find these kinds of things out and to say, "How can we actually do it better?" It really perhaps is a way of addressing your question, "How do you get these folks back?" Maybe you get them back by getting them to comply in the first place.

Mr Beaubien: Professor, what a breath of fresh air. If we go back to the first meeting we had, I think I made some comments that the system was broken, that there is something drastically wrong with the archaic system we run. If we look at government overall, it's broken, it's too big, it's too unwieldy, it's very inefficient, and if we relate it back to the Ministry of Revenue, the same thing applies.

However, I think this committee is of the opinion that by putting 50 or 100 more auditors or however many more we want to put in, we're going to solve our problem. I happen to concur with the professor that I don't think that is the problem. It is the problem, but the compliance strategy has to be changed. I think we should listen to the professor. I think the last example he gave us is a perfect example of how we become innovative in applying new tactics in collecting taxes. Is it a moral issue we're dealing with? For most people, it isn't.

I think I related in the first meeting that if we had an officer at every corner we would still have speeders, we would still have people breaking the Highway Traffic Act. We cannot have enough auditors in this province. I think it's a mindset that we have to instil in people, that we are here as part of a society and we have to do our part.

I have been audited both by Revenue Canada and by the retail sales tax. Thinking we're going to walk into somebody's office or somebody's business operation with a big stick and make him comply—folks, give your head a shake. It's not going to work. I think the professor has just told us that today.

What we need to do is not to hire more auditors or redeploy more auditors. We have to look at, what is wrong with the system? Why is this system failing us? We've been collecting taxes the same way we've been doing for the past 100 years. Society has changed. Yes, we have computers today and we didn't have computers 50 years ago, but basically we are still collecting taxes the same way we did then while society has changed tremendously, and we have not addressed that. If we think we're going to solve the problem, whether it's mainly avoidance or evasion we're concerned about, I don't think putting more people on to audit other people is going to work.

1130

Mr Hastings: I generally would echo my colleague's comments about the whole approach: that if you put more people on, you should earn more income as a result.

I'm just wondering whether just an overemphasis on more compliance and higher penalties and maybe making a rogues' gallery out of these folks—and I'm not saying by that that I'm in any way condoning or saying, "Jeez, these aren't bad people, they were just playing around a little." We know there are a large number of folks who are deliberate evaders. That gasoline-tax gentleman who was taking the coloured dye out of product and selling it as a conventional gasoline is a good example.

But I'm wondering if you could give us your thinking on what other components of prevention might be enhanced here to balance off what seems to be an overemphasis on the notion that if you just increase the penalties so much—double them, triple them, quadruple them—somehow or other that's going to reduce the amount of tax cheating, whether deliberate or incidental. Do you see any kind of award system?

What I'm trying to get at here is a better use of moneys to the small business sector for the collection they're doing in terms of the amount we're giving them,

which to me is basically a pittance; you might as well just take away what's left, because it's so incidental to the time that's incurred in the collection of tax on many products.

Dr Doob: Let me give one example, and this is not a very specific one. One of the issues that comes up is, to some extent, what we're not doing. In some sense, the committee is in a position to change this. We're not going to the people who undoubtedly have a lot better intuitions about these kinds of things than I do, and that would be the field people who are out there working with the people and probably having pretty good intuitions as to where they're not finding things. They go in to a retailer and find a few hundred or a few thousand dollars, but they know perfectly well they're missing a whole lot and they're not sure where and they know they're never going to find any records.

My feeling about it, if it were my job to do, is that I genuinely believe that a lot of these people who are in the field doing the day-to-day slogging work on this stuff go in and say, "What we need to do, the way we would find this information or the way we could get this information—nobody likes paying taxes, nobody likes giving out money, but we could find a way to make it easier" or to close something up or whatever it might be.

Let me just give you an analogy. Again, the work I've done is really in income tax rather than in retail sales tax, but when I was doing some work on income tax one of the questions we asked people—and people were remarkably open about talking about how they evaded taxes—was how likely it was that they would cheat on their income tax under two different circumstances. This would be at filing time in April for personal income tax.

The two circumstances: To one group of people we said, "Imagine that you do your calculations and you figure you owe the government a certain amount of money and there hasn't been sufficient money withheld," as is the case for many of us. "How likely is it that you'd cheat under those circumstances?" The other circumstance was: "Imagine the situation where you're going to get a refund." What people are interested in at income tax time is how big the cheque is that they're going to write or whether they're going to get a refund. It turns out people are dramatically less likely to cheat to get a bigger refund than they are to keep from having to write a big cheque to the government.

In terms of strategy—and it isn't that simple—that means that any system which overdeducts is going to reduce tax evasion, because if you can reduce the number of people who have to write cheques to the government on April 30, you're going to reduce tax evasion.

That's as trivial a problem as you can imagine. If there were some analogy—I'm saying that's just one example and it's from a different area, so I don't have a quick one on this one, but that's the simplest thing in the world if we were willing to, in a sense, create deduction systems which tended to deduct more income tax from people. Or in fact the business of people who have mixed kinds of incomes or income from various sources who have to pay by instalments: If you've overpaid by instalments, you're not going to cheat at the end, it turns out.

I think that's a very simple one. I think I would go to people and talk about it, and talk about it in terms of the situation. It may be that there are some additional compliance costs which you would want to impose on people that would, for example, track money, which would make people believe that they're going to be caught. Something like the prospective audit, for example, might make people say, "It's just not worth it for the amount that's involved to evade this tax in this way."

As I said before, I think the worry that you have is when the retailer says, "I'll give it to you, but you don't have to pay the taxes as long as you pay in cash." It's not the 8% that you're losing; it's the income tax you're losing that you should really be worrying about.

Mr Hastings: Do you think we should be giving somebody from the outside—I'm not big on consultants all the time—getting somebody to design, in conjunction with those folks who are out there on the front lines collecting the tax, a good survey as to how we could make the compliance more effective in terms of patterns of collection that you allude to in this proposal? In other words, we'd get some of the folks in the retail tax collection branch working more smartly; not necessarily, as the mindset seems to be, that we have to either have more bodies doing the auditing or we have to have more technology, which I'm usually in favour of if it'll yield better results over time.

Do you think we need to be doing some kind of design strategy or survey to see how we can cast a wider net on the compliance side in those sectors that generally don't yield a lot of money anyway—although we know there's quite a bit of incidental tax cheating going on out there: flea markets, art gallery sales by the wholesale-type art gallery that you see around, estate sales, that sort of thing.

Dr Doob: How you turn around an organization, an institution, is a tough one. What I would hope is that the committee would take it on as its responsibility—whatever powers the committee has—to try to urge the retail sales branch to take a different approach to it. My reading of it is that they need some pressure; they need some tough words from you for them to take on this kind of approach.

At the same time, as I said, I have a basic belief that they're doing in a sense what we've always told them to do. I'm reluctant to be too critical of individual people, because all we've ever told them to do is, "Go out and audit, audit smarter and do it a little bit better." We haven't told them, "Wait a minute, stand back from it all and really think." If you tell them to do that—you know, I'm sort of sceptical of outside consultants. I wouldn't want this to be a big cost; I don't think it needs to be a big cost. The people there, I would assume, are intelligent enough to take this on as their job, which is really what you want. You don't want a consultant to come in and do a survey and whatever; you want it to be them, where they say at the end of three months: "Look, we're really finding something out here. We're finding out that folks are evading through this mechanism."

In terms of audits, that's what we should be doing, and we're finding out that when we go in there and in a sense

let people know that we're doing a blitz audit on this particular location, everybody else all of a sudden starts remitting more money.

1140

Mr Hastings: So what you're really talking about, then, is changing the whole orientation and philosophy of a probably bureaucratic approach they've had, command-down types of directives and memos, the usual—

Dr Doob: Yes, where the only tool they have—

Mr Hastings: —instead of a quality team assurance approach, which is pretty innovative, I guess, in its place.

Dr Doob: I think the important thing is that they see it as beyond—you know, if you look at it in terms of measures, in some sense the Provincial Auditor did the same thing. If you said, "What is the measure of the success?"—if the measure of success is how much you spend on an audit and how much you get back right away, how big the cheque is that you get from the taxpayer, as long as we evaluate them in that way, then of course they're going to say, "Give us more auditors and we'll give you more money."

I think if we start evaluating them by saying, "We're interested to see whether you can increase overall compliance and we want some good measures of overall compliance." There are good measures out there. As I said, this isn't rocket science. This isn't complicated things. You don't need expensive consultants. You probably don't need consultants. You just need to change the way in which you're doing that and to say, "What we're interested in is how much money you bring in, not how much money you get out of individual people who have evaded."

Ultimately, if for example you lose a little bit in terms of the number of people you catch doing tax evasion but gain by overall compliance, I'd see that as a big plus, because that's what you want. It's the same thing as impaired driving. You don't want to catch people at impaired driving; you want to keep them from doing it.

Mr Hastings: More strategic use of the existing—

Dr Doob: Of their resources, yes. But they may need more resources. I can't judge resources. They may need more resources, but I think what they should be showing in order to get more resources is that they have an overall compliance strategy which will actually increase overall compliance, and in order to do that, they need more resources or the same resources. In my ideal world I'd tell them to think about an overall strategy and to come back and report to you.

Mr Hastings: Finally, in your own reading, or talking to people in this field, are there any particular jurisdictions that have a model that is even slightly akin to what you're recommending?

Dr Doob: I honestly don't know. There may well be. As I said, this particular kind of tax isn't something that I know. I know that the problem of doing experimentation and looking at overall compliance is not part of the mindset of people who are in this business. They talk about overall compliance, but I don't see the evidence of an overall strategy in that way.

You see it to some extent in income tax things. When I was looking, at one point, at the United States in terms

of the way in which income tax is done, there is a variety of things they do which are really attempting to try to increase overall compliance, largely in terms of tracking money, in terms of making it open where money is moving, and if you know where money is moving, you obviously know where you can tax it.

Mr Hastings: Thank you very much for your insights.

The Vice-Chair: Mr Peters has a few comments and questions.

Mr Peters: I'm very happy you're here and raising these points. We seem to be, in spite of your comments, somewhat in accord. I'll quote directly from our report here. We're saying "We question whether compliance with the law is being adequately enforced and whether public confidence in the fairness of the tax system is being maintained." That is the thrust of my report, and I think that seems to be in agreement with what you are saying.

That is the thrust of my report, and I think that seems to be in agreement with what you are saying on this matter. Furthermore, we did make a recommendation to research the study and we also sequenced, rather interestingly, what the areas of research are, and this may be of interest. We said first research compliance; research enforcement; research sector-by-sector analysis; and audit is the very last point.

The point of why we raise the audit—and Mr Beaubien, if I may speak to your comments as well—we don't view audit in itself as a final solution. What we were very concerned about was that audit had deteriorated to the point—and by agreement with the ministry, it's only in closed session that I can share with you, not in Hansard, to what point it had really deteriorated. When we do our reports is one of the problems we are facing. If we get into the how-to areas, how to enforce compliance, we put out into the public the blueprint of how to avoid taxes, so we are somewhat handicapped by this.

I'm somewhat influenced in this by statistics and I'll show you. We have a poll that was done by COMPAS in 1995, where Canadians were asked if they have become more determined or less determined to avoid taxes. This shows that 42%—I think there's that percentage, is there, Jim?

Mr James McCarter: Yes, it's 42%.

Mr Peters: So 42% is much more determined to avoid taxes; 35% somewhat more, so we're way over half by now; 8% felt the same; 11% only somewhat less; and 5% much less. I'm bringing up this handicap in our report to answer the how-to question, how do we do it? That's why we stay in the general and we say to the ministry, do we do research?

To give full credit to the ministry, many of the points that Professor Doob is raising are right. They do have the knowledge; they do have it in there. But one of the principal pieces of audit is not just that the person is out there doing an assessment and bringing back \$407. That was the only indicator we found and that is the only indicator we reported, but there are two very specific additional indicators, and I think your example points that out.

Number one is that the auditor also comes back with a direct field knowledge. It comes out that he's one of the best direct contacts that the ministry has with the field. He doesn't just come back with a report that says: "Gee whiz, I really did great. I recovered \$407 for every hour I audited"; he also comes back with information that says, "This is what's going on out there," he feeds that information back to the ministry and that leads to regulation and other things.

That leads—and you may want to comment on that—to the second point: the ripple effect from audit. In other words, if I could share with you how little auditing that is really done in the small vendor community, I'm sure you would be as shocked as we are. We are really questioning, in a way, how much ripple effect are we getting from the audit? What I mean by "ripple effect"—really the fundamental issue that you seem to address is that to get better compliance, there has to be a change in attitude towards the tax itself, and how one achieves that is really a big question.

We, as auditors, get into a policy area if we start making recommendations as to how to change attitude or how to change the law. That is the role of a committee such as yours and that should be addressed here; that cannot be addressed by us. That seems to me to be at the bottom of it.

One of the attitude changes you're referring to is what my brother, who's a professor of psychology, always tells me is the "control monkey" theory. What they did was they operated on the brains of monkeys in order to determine what impact on the behaviour resulted simply from having an operation as opposed to what they did to the brain. They operated on two monkeys. On one they just did the cutting and suturing and on the other one they actually did the brain operation.

1150

If there is a way in which one can actually go to the taxpayer community and, say, separate them out and say, "We're doing something with you but we're not doing it with the others, to see how it changes your attitude," the how-to that could come from somebody with your expertise would certainly be welcome.

The Vice-Chair: If I could just interject, we just got a call that the House leaders are meeting and they would like to know whether we want to meet during the recess period. We have to indicate to them whether we want to or not as a committee. Sorry, perhaps we'll just take care of this.

Mr Peters: That's okay.

Mr Crozier: Certainly the clerk could help us on this, but I think we do normally ask for some time kind of equal to the number of hours that we would have met had we been here, only maybe a couple of days joined together. Isn't that the way it usually works, Todd?

Clerk of the Committee (Mr Todd Decker): We've usually asked for and received around two weeks in the intersession periods to deal with sections of the Provincial Auditor's reports.

Mr Crozier: I would suggest that we ask for that time.

The Vice-Chair: Any other comments?

Mr Beaubien: One last comment, and I will make it brief.

The Vice-Chair: No, just on this—

Mr Beaubien: Oh, on the meeting? I'm sorry. I agree with Bruce.

The Vice-Chair: Is that an agreement, that we ask for that two-week period?

Mr Peters: Could I just make a recommendation? We had a problem with that last time. Could you make it a formal resolution?

Mr Hastings: I'll move that it should be the sufficient amount of time. I'd like to create it so that it's flexible. We're dealing with Mr Peters's report in other areas. Is the amount of time, Todd, that you're suggesting sufficient and adequate to deal with the principal items we need to?

Clerk of the Committee: The subcommittee had identified three areas from the Provincial Auditor's report that it wanted to deal with: the retail sales tax, Jobs Ontario Community Fund and the Ontario Parole Board.

Mr Hastings: In your experience, it should be enough time, two weeks?

Mr Peters: If time permits, you may want to add some others, depending on how you do, but there's at a minimum three topics that the subcommittee had decided would be worthwhile looking at.

Mr Hastings: I'd recommend that we at least do two weeks, and if the subcommittee suggests another one to cover the other topic, so be it.

Mr Crozier: Probably we should ask for four so we'll get two.

The Vice-Chair: So we have a resolution here, a motion moved by Mr Hastings that we ask for the two-week period in the intersessional period to meet as a committee. All in agreement? Opposed? It's carried. We can forward that on.

Okay, if we can now get back, we'll just let Mr Peters complete his comments and then Mr Beaubien wanted to make a comment.

Mr Peters: I'm fine.

Mr Beaubien: The only other comment I would like to make is—and that's why I believe that we have to have a new compliance strategy and we have to assess ourselves as to what we do as a government—if we look at the abuse, the misuse in the system, if you read the newspaper in the past few days and you see how people have \$80 lunches, how they rent vehicles and how they spend the taxpayers' money, why in the heck should a guy making \$30,000 a year, whether it's income tax or a guy having sales of \$100,000, comply when he sees that his money is abused by the politicians, by the bureaucrats?

We not only have to look at what the problem is, but we have to look at the overall picture, and that's why I think it's imperative that we have an overall compliance strategy and examine ourselves—the bureaucrats should examine themselves—how we provide the service, how we deliver the service. Until we eliminate all the

abuses—you'll never be able to eliminate all the abuses, but until we control them at least somewhat, I don't think people will control the way they pay their taxes. I really feel strongly about that.

Mr Hastings: I couldn't agree more with Mr Beaubien's outlook and comments. I would simply add, is there some way that the auditor could look at ways of creating indicators of value for the moneys that are being collected and not just success ratios of the amount per hour or however you measure the productivity of the auditors in the field so that we start to establish a strong linkage between value the taxpayer is paying, whether they be individual or business, to the amounts collected. That kind of thinking I think we've got to start to get into.

Mr Peters: I would agree with that. In fact, in our report, the one area where we came closest to making those kinds of suggestions was when we reviewed indeed the information technology used, where we've certainly identified for the ministry, and they agreed with us, a number of other indicators that information technology could provide to them to deal more effectively with compliance and enforcement of the law. Hopefully, that goes further.

I may be at some risk. I'll share with you that as a follow-up on our audit, we're now working together with the ministry on dealing with the issues of efficiency and effectiveness of the tax collection system. They have come forward and asked us for further input, and this is a service we're gladly providing.

The Vice-Chair: If you could take the chair, Mr Crozier, just for one second.

Mr Mike Colle (Oakwood): I guess this is a follow-up. I know it seems to be consensus that we'd like to maybe look at some of these innovative ways of introducing this overall compliance strategy, and I'm just wondering if the auditor can be specific to ensure that this committee knows what is required to follow through with this perhaps new, innovative approach.

In other words, there's got to be sort of some mechanisms that we should at least be made aware of that we can support your attempt to bring forth these mechanisms to follow through on this approach, because I'm pretty sure it takes more than just a communication to the Ministry of Finance. Where we're going to have to ask for some specific, I think, approaches that we want to endorse, perhaps it'll accomplish this end.

I think you know that best, because I guess what we're saying here is, you know, just auditors and increasing the audit capacity as business per usual is not going to work. We'd like to look at ways of achieving these different approaches to achieving that end, with perhaps some specific details on that.

Mr Peters: The most clear-cut mechanism on that, and this is in fact a time-consuming one that you may want to consider even in the two-week period, is that as a result of your examination of our chapter, there will be a report written by this committee to the House, to the assembly, and in that you have the right to add any number of recommendations you would like to do, including the areas I identify for follow-up or further exploration by the ministry. Does that help in that regard?

Mr Colle: Yes.

Mr Peters: Because that's a reporting mechanism. You have a choice of how you want to deal with, for example, the good testimony given to you by Professor Doob as to whether you—it ranges all the way from letting Hansard stand to making a full-blown report of your own as a committee in which you add recommendations for follow-up by the minister through the Legislative Assembly.

Mr Colle: I think that's helpful, so for the committee to look at the different ways of reinforcing the fact that—it's been indicated to us there are certain things that can be done and we want to ensure that it's not just another Hansard report that goes forward and is lost and another year goes by. I think it is up to the committee to decide if it wants to produce a report with certain recommendations, maybe a couple of pilot projects that can be measured and monitored and report back to the committee on, that type of thing. At least we can see that these approaches are being followed up on.

The Vice-Chair: Any other questions or comments before the professor leaves? I want to thank you very much. I think the committee is certainly very responsive to your ideas, and hopefully it will help in coming forth with some interesting innovations. So thank you very much for coming before us.

Motion to adjourn?

Mr Hastings: So moved.

The Vice-Chair: Merry Christmas, I guess, to the committee members.

The committee adjourned at 1200.

CONTENTS

Thursday 14 December 1995

1995 annual report, Provincial Auditor: Ministry of Finance	P-33
Dr Jack Mintz, faculty of management, University of Toronto	P-33
Dr Anthony Doob, Centre of Criminology, University of Toronto	P-39

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*Vankoughnet, Bill (Frontenac-Addington PC)

**In attendance / présents*

Also taking part / Autres participants et participantes:

Erik Peters, Provincial Auditor

James McCarter, executive director, ministry and agency audits

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

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P-5

P-5

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Standing committee on public accounts

1995 annual report,
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Chair: Dalton McGuinty
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Tuesday 30 January 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Mardi 30 janvier 1996

*The committee met at 1000 in room 151.*1995 ANNUAL REPORT, PROVINCIAL AUDITOR
RETAIL SALES TAX

The Chair (Mr Dalton McGuinty): Good morning, committee members. Welcome to the standing committee on public accounts. We're conducting hearings today into the matter of section 3.07 of the 1995 annual report of the Provincial Auditor, more specifically known as the tax gap.

RETAIL COUNCIL OF CANADA

The Chair: Our first witnesses this morning are appearing on behalf of the Retail Council of Canada. Welcome to the committee, gentlemen. Would you kindly introduce yourselves before beginning, and I'd like to let you know as well that we're going to have ample opportunity this morning to hear from you and for committee members to ask you questions. So please proceed.

Mr Peter Woolford: My name is Peter Woolford. I'm a senior vice-president of policy for Retail Council, and with me is somebody who actually knows what he's talking about, in contrast to myself, Leonard Eisen. Mr Eisen is treasurer of the Oshawa Group. He was telling me this morning that he has been in the accounting profession for some 38 years, so there's a lot of experience that I have sitting beside me this morning, and I'm grateful for that. He is the chair of Retail Council's tax committee. He's a past chair of the Canadian Tax Foundation. He has been very active as a leader in the accounting profession for many years, so he is certainly someone who brings a great deal of knowledge and expertise.

I had expected to have with me this morning, as well, an independent business representative. Unfortunately, the end of January is the year-end for many retail firms, and the person who was to join me this morning at the last minute ran into some problems and could not join us. I think the way he put it to me was that they wanted to be sure they were in compliance with the provincial tax requirements rather than showing up here to explain how they could be improved.

Thank you for inviting us to appear before the committee. It's always a pleasure to have the opportunity to present the views of the retail trade. We have well over 2,000 members in Ontario, and because of the presence in that collection of a large number of larger firms, we represent better than two thirds of all retail sales in the province. So we have a fairly representative group of members who belong to Retail Council.

I should stress, though, that the vast majority, 89%, of our members are independent merchants, people in the malls, on the street fronts and the strip malls, who have one or two stores and are trying to make an independent living.

We also include within our membership the members of the Canadian Council of Grocery Distributors, of which Leonard in his role as an employee of Oshawa Group is one. They represent all of the major grocery distributors in Canada, and they fully support the views in our submission.

As a general opening remark, I think the key point we would want to stress here is that when collection of consumption taxes, and particularly the retail sales tax, is being considered, the Ministry of Finance should look at the retailer as a partner. It is the retailer who acts as the collector for the government of this tax, and we feel that underlying that relationship there should be a recognition that this is a partner rather than, let's say, a potential offender, a potential cheater or a potential lawbreaker. If the ministry approaches this from the point of view of building a working relationship with business people who basically want to do the right thing, we feel that a more positive and a more professional relationship will result.

I should say that when I talked to our members about this, the vast majority of them said they thought that their relationship with the ministry was a fairly professional, responsible one. They feel probably that the ministry spends more time doing needless audits than it should, but there have been relatively few members who have reported to us instances where they feel they've really been attacked or harassed. They do feel, though, that the burden of auditing is substantial.

When we got the letter of invitation, the staff of the committee made it known to us that the focus of the committee was with respect to both the underground economy and the audit process, so I'd like to address each of those in turn.

I would stress first of all that legitimate retailers are hurt as much as the public purse by people who go underground for their economic activity. In fact, then the legitimate retailer feels pressure on his or her prices, on his or her margins. They face a loss of market share from product being sold outside the legitimate process, and so they suffer in the same way that the province does from a loss of revenue and all the damage that causes.

When we first appeared before, I think it was the standing committee on finance and economic affairs back in 1993, to talk about this, our principal concern was with smuggling, particularly the flourishing illegal trade in tobacco, and secondly, the informal smuggling of cross-border shopping. Out of that, we think we've identified

a number of lessons for governments in terms of how they deal with the tax and audit conundrum.

Before you come to questions of how to audit more efficiently, we think there are really four key things governments need to do to ensure that the tax system is accepted by the public, and we've enumerated those in our submission.

First of all, obviously there must be broad public support for what is considered to be the appropriate size of the public sector itself. Secondly, there must be public support for the spending priorities of the government. Thirdly, the structure of the tax system itself must be perceived as being broadly fair. The previous government, for example, spent quite a bit of time on a tax fairness commission to investigate those issues. Then finally, citizens must believe that the overall burden of the taxes themselves are supportable. If those measures and those conditions exist, then within that environment you can use audit measures to enhance compliance and ensure that non-compliance is discouraged.

I'd like to turn to the audit issues themselves. First of all, we would suggest that there are very real limits to what can be done to ensure compliance. A couple of points here. I'm not entirely happy with the way we've expressed it in our submission. I'm trying to get the nature of this conundrum across to the committee.

The reality is that the vast majority of retailers, like the vast majority of citizens, are law-abiding and they want to comply with the law. The second point is that those who want to cheat, those who wilfully want to evade taxes, will take steps to do so.

The combination of those two things, a large majority who are essentially law-abiding and a very small minority who are taking efforts to hide, means that auditing has very real limits. It means that most of the audit effort, no matter how you shape it, will be spent on firms that are trying to be in compliance with the law. Equally, it will not do much to touch those who are making significant efforts to hide away from the light of exposure.

The unfortunate result of that is that the vast majority of firms will feel, to a greater or a lesser degree, that they're harassed when they're being audited and those who are wilfully avoiding their responsibilities will see relatively low danger of being caught. So there are very real limits to what you can do with auditing.

In the Provincial Auditor's report there were a number of tactics for improving the precision of auditing processes. We broadly support those and I'd like to go through a number of those here in my opening remarks.

The first tactic that the Provincial Auditor talked about was cross-referencing: cross-referencing a reporter's reports in respect of different tax bases within the provincial area and then also cross-referencing provincial records with federal records. We think these are both very good methods of identifying potential areas of non-compliance. Particularly as you go from the RST revenues to personal income tax or corporate income tax reports, there are often discrepancies in the case of firms which are trying to hide from or evade their responsibilities. With the use of good analytical tools, it should be possible for auditors to sharpen their focus on to firms where there is a higher likelihood of non-compliance.

1010

We think there's particularly good value or particularly good opportunities in relating the provincial records to the federal GST records. As I'm sure many members of this committee know, the Retail Council of Canada has been an endless supporter of harmonization of the provincial retail sales tax with the GST. This is just another reason why harmonization makes so much good sense, and again we would urge this committee to strongly support harmonizing the provincial sales tax with the goods and services tax.

One of the features of moving to a value added tax is that for business-to-business transactions, firms want to know how much tax they have paid. They want to pay that tax because they get it back. Once you have a system like that, there is an internal dynamic to it which encourages reporting of tax paid and tracking within the private sector itself, because they know then they can get it back. That encourages compliance, because if you know your customers are reporting how much tax they have paid to you, you as a vendor have a natural incentive, then, to report how much tax you have collected to the province or the federal government.

The other issue I'd like to talk about at a bit of length is audit coverage. This was the issue that got the greatest attention and concern of our members. Particularly large and small retailers would be very concerned if the response to concerns about compliance were simply to do more audits and to do more thorough audits. There was a great deal of concern about the burden that would place on firms and some doubts about how effective that would be.

In particular, we would take issue with the suggestion by the Provincial Auditor that there simply should be an increase in the number of audits on small firms. We do not believe that would increase compliance, and we think that would amount to an increase in the burden and the harassment that these firms would face. No audit program, no matter how extensive, is going to cover more than a very small percentage of the independent businesses in this province. That means that if I want to hide away from the province some of the revenues that I should be reporting back, I can be reasonably sure that I'm going to get away with it.

As a result, as I said earlier, what you'll have is that those who want to cheat will still feel that there's a relatively low level of danger that they will be caught, and those who are legitimately reporting their taxes will feel that they're being hit on more frequently than they are now. Again, what we would suggest is more precision, more accuracy in selecting appropriate candidates for audit and trying to identify firms where there's a higher likelihood of evasion or mistakes.

The other key point that a number of our independent members have made is, "You know, when the auditors come in, what they find is not evidence that we've been cheating or hiding but that we don't know what the rules are." This is a pretty complex piece of legislation, and we're not always aware of what the requirements are. We don't have professional auditors, professional accountants like Leonard, on staff. More than anything, what we need from the auditor who comes in is advice on how to

comply. So don't come into our business and treat us like criminals; come in and teach us what we need to know so that we can comply in the future. That's an approach that we would very strongly recommend to the ministry, that if an auditor gets into a company and realizes that there are some weaknesses in the way the firm is reporting its revenues, reporting its taxes, take the time to teach them how to do it right rather than seeing this as an opportunity simply to claw money out of the firm.

The principal concern, then, of our large members is that they will simply be viewed as milch cows, that this is a place where you can go and get your quota up for the month or a place where you can simply claw out more revenue for the province.

The reality is that most large firms have extensive internal checks in place. They hire professionals, whose professional reputation is on the line with the reports they make. The likelihood of cheating or deliberate tax evasion in those larger firms is very small. What you get into is a situation where professionals will disagree on the detailed interpretations of the law and of detailed definitions of what constitutes a taxable sale and what doesn't. Those are issues on which professionals can disagree legitimately. Again, it's not an attempt to evade responsibility or to hide revenues from the auditor; it's a question of differences in professional interpretation.

If the ministry wants to have a partnership relationship with those larger firms, it should treat that as a partnership rather than simply a place to go hunting for cash. A repeated concern from our larger members was that, particularly if auditors face a quota that they have to reach every month, they will then be inclined to go for the cash rather than for the crooks. That's something we think the ministry needs to think about very carefully as it sets up its audit processes.

Again, we like the suggestion in the auditor's report that there be more precision in this area, that criteria be developed for identifying appropriate firms for audit in this area, and we would be happy to work with the government to try and identify how it could go about doing that.

In conclusion, we very much share the concerns that the Provincial Auditor identified in his report because we think that many legitimate retailers are as much concerned about these problems as the province is. We would emphasize that a partnership approach stressing training, education, information exchange is a more fruitful way to go than catching bad guys, because we don't think you can ever be effective at that. Finally, we would certainly express our strong opposition to just a general, unfocused increase in an audit effort. We think that would do more simply to harass independent businesses and medium-sized and large firms than it would do to discourage noncompliance by those who really want to.

Mr Chairman, those are my opening remarks. Both Leonard and I would be happy to answer any questions or comments from the committee.

The Chair: Thank you, gentlemen. Committee members, as I indicated at the outset, we have ample time for questions. I'm going to propose that we begin with the government side with a period of 10 minutes, and then we'll proceed in rotation after that. Mr Skarica.

Mr Toni Skarica (Wentworth North): Looking at this report of compliance costs for the GST and PST, one of the things that disturbed me is that there's never been a study of how much it costs to comply. Places like Bermuda and Hong Kong have no sales tax. When the GST came out, I noticed there was an explosion in the law library of those reports from the reporting services, and when you open those up, there are accountants and lawyers ad nauseam who are preparing those things and are out there doing that. Is there any idea of how much it costs Canadian business to comply with these complex laws?

Mr Woolford: I don't have any numbers for the retail trade as a whole. Leonard, do you have any sense of what it would cost your firm? Oshawa Group has about \$6.5 billion in retail sales a year, so that would give you at least an insight into what it costs one firm.

Mr Leonard Eisen: In answer to this specific question, we've been unable to really come up with a hard number. The Canadian Tax Foundation has attempted on numerous occasions to come up with studies dealing with the costs of compliance. There was a study done a number of years ago which talked about tax compliance in its totality but not focused on retail sales taxes or GST. We have attempted within our own organization to see if we can come up with some numbers and, regrettably, anything we've come up with has been so soft that it's really not been able to be focused or be meaningful.

Mr Skarica: How about directing it another way then? What kind of a competitive disadvantage would it put you in vis-à-vis firms from the non-tax places like Bermuda and Hong Kong?

Mr Eisen: Again, you're really not competing, in a sense, if you're looking at the domestic retail market. If someone decides to go on a vacation, you're competing with the world, essentially, in any approach to products.

In our domestic market what you're really competing with, if you will, are those jurisdictions where the public perceives value or markets to be less, going back a year or two ago where there was a fair bit of cross-border shopping. You also have to be sensitized to your own internal cross-border shopping, whether it be other provinces that border on Ontario where there may be products moving across the border which may not have tax charged in either jurisdiction—internal smuggling, if you will.

1020

Mr Skarica: On that point, we've had a number of US retailers like Wal-Mart and so on come into the country. Historically, Canadian banks have gone worldwide, but I don't see Canadian retailers going outside the country. Retailers are coming in here. Does our tax regime have anything to do with that?

Mr Eisen: I think there are a number of issues. One of them, of course, is the size of the organizations and the ability to source product, if you use Wal-Mart as an example. They're sourcing product both domestically and worldwide and just their purchasing power gives them a certain level.

Unfortunately, many retailers have gone into the United States and have not fared well in competing in that environment. So, while you speak the same language,

you think it's the same industry, each market is unique unto itself and the understanding of that uniqueness is either a strength or weakness as the case may be.

Mr Woolford: US firms have a couple of other advantages too. One is that even before they arrived in the Canadian market, the dominance of the US market and the advertising machine that goes with that just washes over into Canada. Canadians read American magazines, they watch American television, they listen to American radio, which have advertisements in them for American retailers and American products, initially aimed at the American market but washing over into Canada. So, in a sense, their market entry into Canada is prepared in advance. Because we are so much smaller than they are and our reach on our advertising into the States is much narrower, Canadian retailers don't go in with that kind of prepared market.

The other factor that Leonard alluded to, of course, is just the raw size of many of the American firms coming north. The Canadian market is a relatively small extension for them, whereas for a Canadian firm to go into the US market is a huge leap. So the difference in the sizes of the two countries does make a difference as well.

Mr Skarica: On the balance sheet, just from that last question, do you have any idea what proportion of your expenses would be attributed to tax compliance, accounting fees, legal fees and that type of thing?

Mr Eisen: Again it falls within the earlier comment I made that in the case of audit fees, to use one example, the audits are being done for so many different purposes. Particularly where it's a shareholder audit for the purpose of rendering an opinion, it's not specifically focused on that area.

I should point out, just to give you an idea of the concerns that exist, there has been an industry that has developed on contingency audits where firms will come in to not exclusively retailers but any business environment, and on the basis of their expertise, where a firm doesn't have it, will share in recoveries because firms have not been able to comply—they may have overpaid—and share in the recoveries.

I should point out just one comment, by way of size. There's been a lot of hype about Wal-Mart coming into this country, and other large-box retailers. As you know, Wal-Mart has a very significant large position in the US. They're really recognized as general merchandise, but their food segment, by the way, happens to be in the vicinity of US\$16 billion, just to give you an idea, and this is not a major focus on their part.

Mr Woolford: Could I just pick up on your question a bit? It just occurred to me, I was talking to one of our members recently. We were trying to get a hold of what the cost just of auditing is for the private sector. She reminded me that one way to get at this would be to look at the cost to the province of auditing. She estimated that for large firms, they probably used two people for every auditor who came in, just feeding them information, giving them responses, preparing material for them, that sort of thing. She thought if you looked at the total provincial government expenditures just on audit, you'd have at least twice that in the private sector simply responding to that audit pressure or that request for information.

What it doesn't capture, of course, is the work and the cost the firm goes through to produce the results for the province in the first case. But just on audit, we were kind of speculating and she speculated that it might be as much as twice as much as what the province itself spends to audit. So that's one professional's very rough benchmark of what the cost of auditing is.

Mr Skarica: So roughly, in dollar terms, what would that be?

Mr Woolford: I'm not sure. Maybe Mr Peters knows how much the province spends on the audit effort every year, but her guess was it might be twice that in terms of private sector costs.

Mr Skarica: I'm sure he'll tell us it's a bargain.

Mr Erik Peters: If I may, probably on a tax audit there would be less involvement of management than would be on other audits like a shareholders' audit or the audits for value for money or compliance in other areas. So I'm not surprised at the ratio of two to one. It may be slightly high but it's probably in the ballpark.

If I may comment a little bit further on this, one of the issues we did raise in our report, and I'm glad, Mr Woolford, that you picked up on this, is that audit effort has to be aimed. I would like to get away and the ministry is certainly getting away from the point of having blanket audit coverage. What we are encouraging is that they install a management information system that allows them to target their audits where they have the most payback. In other words, they don't harass the good guy and they deal more effectively with the actual evader, which is hurting the retail trade just as much as it's hurting the taxpayer in the pocketbook. I'd just leave it with that comment.

Mr Woolford: I really wish that our independent retailer could have come this morning. He had exactly that case. This firm was audited, I think it was two years ago, and reported that the auditor arrived and was very professional. They had a good working relationship. There were no complaints about the behaviour of the audit other than that this is a small firm with four stores.

The auditor showed up on the first day, went through the company's books over the course of that day and at the end of it, commented to the owner that he could see already that they were basically clean, that he wasn't going to find much of anything. But he didn't stop there. He was there for another three days doing a series of tests after tests after tests, each one of which showed no errors, no mistakes, no evidence of any non-compliance. But he stayed there rigorously doing test after test for four full days, at the end of which the province got zero revenue, and that firm's financial person had spent four full days working with the auditor rather than working on the affairs of the company: a waste of time for the province, a waste of time for the firm.

As Leonard suggested to me beforehand, maybe the thing to do is to start with what he called a desk audit, where you look at the information that the firm has submitted initially to make a go/no-go decision even before visiting the company and then go through some kind of tree of decisions to determine early on whether it's worthwhile proceeding with an audit in any depth in

that firm. Have you got some additional, more precise, advice, Leonard?

Mr Eisen: Not specifically, other than if you go to an MIS system, or a management information system, what is the cutoff point of compliance? Are we looking at 100%, 90%, 60%? Obviously most taxpayers who are complying, I would suggest, are probably somewhere in the 90% plus category. What I mean by that is that nobody is absolutely perfect and if they're too perfect, I suspect they're probably hiding something. But honest errors do creep in, mistakes are made, people change. Where you think you have somebody controlling issues, a new person comes in, maybe inadequately trained or has forgotten, and things slip through. But, generally speaking, if there is a level of expertise and acceptance, perhaps effort should then be devoted elsewhere, and this would be of course subject to further investigation from time to time.

Mr Bruce Crozier (Essex South): I've always been interested in this debate of the cost to a business of collecting and remitting tax. I'm sure, because there is such a wide variety of business, that there are many anecdotal stories of the likes of which you've given, where the auditor may have appeared to spend too much time and there are perhaps others where they didn't spend enough time.

I was in the retail business for 22 years, in a retail lumber business that had three stores, so the sales were in the numbers of millions of dollars. I found, in my own experience, if you have a system of recording and accounting for the tax, the compliance time spent was really very little. I would suggest at the end of the month, when I reconciled the retail sales tax and sent it in, it might take a matter of several hours, certainly less than a day.

1030

In those 22 years we were audited twice. As a matter of fact, I think the auditor did find some small amount, because in the retail lumber business, with all due respect, you have, for example, the farm community who feel that they shouldn't really be charged tax. So it wasn't unusual to have a farm operator who would basically insist on not paying the tax and, rather than argue with them, we didn't collect it. I think it was originally in the days where it was the responsibility of the payor for the tax. That's since changed, I believe, has it not? The retailer is responsible for remitting the tax?

Mr Peters: The tax they collected, yes.

Mr Crozier: So I just suggest, and maybe you'd like to comment further, that the cost of collecting and remitting the tax may be exaggerated, because it's an easy point to attack and say, "This is something I wouldn't have to do, therefore it's costing me money." My experience wasn't the same as the one you mentioned, where this person had to spend three days with the auditor. We gave them the information. Do you think there might be some exaggeration because tax is an easy thing to attack?

Mr Eisen: Mr Crozier, if I may, I don't believe the issue is so much the compliance of preparation of monthly returns and remitting that. I think when you look at the broader aspect of compliance, it covers the whole spectrum, from setting up your systems to people manag-

ing those systems to people meeting with auditors and issues that flow from an audit etc. If you narrow the definition of compliance strictly to the preparation of your monthly returns, I quite agree, it's not an onerous task, but it's the broader spectrum of how you define that term.

Mr Woolford: Can I pick up on that as well a bit? One of the unique features of retailing is that the people who go into it tend to be people who are strong on people skills, strong on sales skills, know the product area very well. You don't find a lot of strongly financially trained people going into retailing. It's not an occupation that attracts them.

As a result, many independent retail entrepreneurs are not as strong on the accounting and reporting side of their business as perhaps they should be. In contrast, let's say, with other small businesses, where you may find a higher scientific or professional background to people who are running still fairly small businesses, in retail you tend to get people who simply know a lot about this product or that product, and that is their talent, that's what makes their business successful, rather than good analytical or accounting skills.

The second thing we found is that, while computers have been around now for quite a while and the cost of them is relatively low, a large number of our independent retailers still are not using electronic point-of-sale systems. They're still back either in electromechanical cash registers or actually using pencil and paper. Only 42% of our independent members are electronic at this point, which I was very surprised at. I would have thought, particularly with the advent of the GST, that a lot of independent retailers would have finally had the incentive to go electronic. We were quite surprised when we did this research last year and found out that only 42% of our independent members use an electronic point of sale. What that means then is that they're still dealing with a lot of pencil-and-paper work, and that's where the errors start to creep in.

I think your point's well taken that, when you go to a good management information system, some of that tends to fall away, on the monthly reporting at least, but many of our members have not yet either had the time or the money or the inclination to make that switch.

Mr Crozier: That's interesting and I'm glad you brought that up because I am surprised.

Mr Woolford: Yes, it was a real surprise to us as well.

Mr Crozier: In this day and age you would think that it would be much more computerized, mechanized. Certainly, depending again on the size of the business, the cost of that equipment obviously is one of the reasons why they probably don't have it, because in a retail business those kinds of costs you try to keep to a minimum. That's a good point that I certainly wasn't aware of.

Mr Eisen: If I may, Mr Chairman, I should also point out that a lot of the electronics in point-of-sale equipment relies upon the capability of scanning. Scanning is those funny little bar codes that you see on products. Some of it is scanned over a flatbed, some of it is hand-held. Depending on the nature of the retail business, many of

these products come in from offshore and therefore there has not been a standardized bar code that is being used on every product worldwide that is universal. Depending on where you're sourcing your product, it may have to be manually affixed or may come in without any identification, and therefore helps add to the complexity of recording your sale.

Mr Crozier: We'll perhaps have more questions, as I say, but I'll pass on right now.

Mr Gilles Pouliot (Lake Nipigon): Thank you for your time. It's not the first time that you've appeared in front of not only this committee but the committees of the Legislative Assembly, and no surprise with more than two thirds of 65, as you have testified, or more of retail that committees would be well-advised to listen and to listen intently.

I came here today with the hope that tax fairness, that you would give yourself that boldness, would be addressed just as much as tax collection and tax audit, which in my mind are two different subjects or they can be "harmonized" only in this context and they can also be separated.

I would appreciate your comment vis-à-vis an endeavour and under the umbrella of ongoing progress, computerization, a better database, more information, trying to go through the complexities, educate, educate and again educate, and also the reality that governments are being encouraged, if not to run some sectors of government, some service, like a business, certainly at least to streamline.

Sometimes, as you try to improve, let's say on the audit side, you need more, some people would say, audit police, if you wish. On the data side, you must be more sophisticated. So you have some projects; in fact you will be most familiar, last year we endeavoured to have when we were the government, not last year but in 1994, a project, Project Fair Share. Yet, as we look to the immediate future, we see that the Ministry of Finance, like others, will have to fight for disposable resources because governments are cutting back, not only this administration but all over.

What is your comment when you look at the GST and the retail sales tax? Studies indicate that the GST is far more complex, that it has more layers, more levels, and that on the other hand the retail sales tax when compared with the GST is quite simple. Ontario governments to this date have refused to harmonize both for many reasons, one of them that it's not seen as revenue-neutral. Another one is that when you look at comparisons, you see that others have only partially harmonized their GST and respective provincial sales taxes. Do you feel that harmonization would make the system less complex, and if so, how so?

1040

Mr Woolford: I think we would argue very strongly that shifting to a goods and services type of tax and harmonizing it with the federal government is by far and away the best way to go.

First of all, it cuts very substantially the level of duplication and double-auditing, double-reporting, double administration that goes on now. What we have operating in every retail store in Ontario and Canada is two sets of

tax calculations that the retailer must make. The basis for those taxes are different. The systems on which they operate are different. The reporting systems are different and every year two sets of auditors come in. So that alone, just moving to a single system, is a very substantial saving in time and effort for both the public sector and the private sector.

It is in the nature of a value added tax that it is more complex to operate, but in return for that, what you get is a fairer tax; that is, you do not get either tax cascading or double-taxing, which is one of the key problems with a retail sales type of tax.

I think about a third of the provincial retail sales tax that is collected is levied on firms. They may not get that tax back, so they simply build it into their price. So when a retail-type product is manufactured in Canada, a roll of paper towels, that manufacturer includes in the price of that roll of paper towels some provincial sales tax. That's built into the price of the paper towel. It is sold to a wholesaler who has paid some retail sales tax in respect of the equipment that he or she has bought. That's built into the price of the paper towel. It's passed on to the retail firm who have paid retail sales tax on some of the equipment that they use to operate their business. That's built into their margins. So the roll of paper towels that you buy at 99 cents already has a chunk of retail sales tax in it, which the company has not been able to get back.

Then on top of that, the 8% provincial sales tax is charged again. So you have tax on top of tax on top of tax and it starts to add up and it is not seen.

The second problem with a retail sales type of tax is that it's hard to extend it into the area of services. When you're dealing with hard products, like most retail products, it's relatively easy to identify the products that you want to cover and to ensure that those are essentially consumer-oriented products, even with the problems that I've just noted.

When you move into services, it's much harder to distinguish between services that are typically business services and those which are typically consumer-type services. So that problem of double-taxing and tax cascading gets even worse. Over time, as our economy moves increasingly into a service economy, the base for that retail sales type of tax gets smaller and smaller.

So while there is complexity in a value-added-type tax, it has some merits in terms of fairness and in terms of allowing the government to levy that tax on a broader range of transactions. We feel that is the right way to go.

Do you want to add any additional points, Leonard?

Mr Eisen: I should point out that regardless of what is said, there is only one taxpayer and that is the ultimate consumer of the products or services. As you continually attack that consumer, the ability to pay the tax and the appearance of whether or not that consumer is getting value for the tax dollar that is being collected is what's driving this part of the underground economy.

Mr Pouliot: With respect, we hear mention nowadays, in fact some administrations, some regimes, have adopted the "one taxpayer" as one of their slogans and yet they never underestimate the capacity and the ability of that one taxpayer.

You've mentioned VAT. When you mention VAT, would you favour that the tax be hidden, for instance? You represent retailers. For instance, if I have a cup of coffee here and it becomes taxable, if the tax is in the coffee, the coffee would tend to taste better, would it not? As retailers, candidly, would you like to see the tax hidden or would you like that quote again, one taxpayer to be able to see in front of her very eyes—

Mr Mike Colle (Oakwood): Put it on the sugar.

Mr Pouliot: That's right.

Mr Woolford: I'll let Leonard talk on behalf of Oshawa Group. This has been a very lively debate inside the retail trade, in fact, with each individual member having arguments on both sides. We just have not been able to get our members sufficiently in one camp or in the other to be able to give you an answer that represents the consensus view of the trade.

Let me give you some of the considerations. First and foremost, a lot of our members say one of the key elements in focusing the attention of Canadians on the tax burden that they pay is the exposure at the point of sale of the GST. They say that crystallized for Canadians the burden of government taxation and caused them to understand the weight they were carrying. As people who work with the public every day, they feel that's been a very beneficial insight for the public to have, for them to suddenly start to understand the burden of tax that they're paying.

On the other hand they say, "The customer shows up at the point of sale and we add 15% on and he or she is embarrassed because that person finds out there's not enough money in their pocket or in their purse to pay for the product." They get cross at the sales clerk for having to collect the tax, they argue whether or not they should pay tax on this. It's a downer at the sale. Merchants of high-value products will say, "I'll have a customer come in to buy an \$800 sofa and then realize that when you add the tax on it's \$1,000, and they say, 'I'm not paying \$1,000 for that sofa, it's not worth it.'" That's the negative side.

Merchants in border communities say: "If you add the tax in and hide it, our Canadian prices will look higher compared to US prices. So we want it broken out so that we can advertise paper towels or kids' shoes at this price rather than at the tax-included price, because that's how the customer looks at it, Canada-US."

So there are arguments on both sides and it's been very difficult for us to get a clear consensus within the trade or indeed even among single members as to what they would prefer. Leonard, I know that Oshawa Group has gone through exactly this kind of debate as well.

Mr Eisen: We have ongoing debate even within our own executive group. The difficulty you're experiencing is, as Peter has said, how are you perceived in border communities? Unless one is to accept an integrated system and it is uniform across the country, then I think it also has to be included across the country, to this extent, that if you start getting into prices extra as compared to price included, retailers being competitive animals are going to see if they can get a march on their competition, "I'll start advertising prices out so my price

looks lower than my competitors." Unfortunately, I don't have a simple answer for that very complex problem.

I should just point out one other issue that perhaps is often overlooked. When you compare the taxing regimes of other countries, and we looked at a European model, they're dealing with a unitary government as compared to the complexities that we have with provincial jurisdictions and 10 taxing jurisdictions. They only have one, and therefore it becomes much simpler to deal with the issues.

Mr Woolford: Can I give you one more example? One of our members who is no longer with us kindly volunteered to give us some experience in this area. When the shift to the GST was made, Woolco did a lot of research with its customers. Woolco was a set of stores that focused on lower-income women. They did a lot of customer research to find out whether those customers wanted the tax included in the price or exposed at the point of sale. Their customers said: "You know, I really kind of scratch from payday to payday, and I find it embarrassing to show up at the point of sale and find out I haven't got enough money in my purse to pay for the things that I've put in my shopping basket. So I really would like it included in the price."

1050

On that basis, they decided that they would include the GST in the price. They were the only firm in Canada who did so, and they got killed. They just got slaughtered, because their prices appeared to their customers to be higher than everybody else's. And within a matter of a few weeks, they were being forced to switch over. They started to change their ads. They would say: "This is our before-tax price. This is the price you'll see on the sticker." It didn't work. The customer focused on that larger price and said: "Oh, Woolco's more expensive. I'll shop somewhere else."

So the competitive realities that Leonard is talking about are very substantial, and customers react to that in an immediate and very tangible way.

Mr Steve Gilchrist (Scarborough East): As a member of the council for many years before taking on this career, I see we're getting our dues' worth—

Mr Woolford: I hope you've kept your membership up.

Mr Gilchrist: —in your presentation here today. I'll try not to have a conflict here.

Actually, in fact, it's interesting that the discussion has revolved primarily around the question of audits, because our business, a Canadian Tire store, had two audits over our years, and despite the fact that we had Canada's most sophisticated point-of-sale system, it still took a week, at considerable expense, and just the sheer volume of business. In fact, I think contrary to my colleague's experience, the volume of business was what drove the complexity, and what almost ensured would not be a simple matter for the auditor to come in, oversee our original submissions and sign off. And so I can relate to your colleague who wasn't able to make it here today.

You've made a number of comments about how you thought it would be inappropriate for the government to simply extend, in general terms, the audit regime. I guess I've watched over the years the proliferation of flea markets and other retail enterprises, which I would

suspect are not, by and large, members of the Retail Council, and I think would tell me something else. That fact would add to my original suspicion that these are probably not, by and large, individuals who are likely to be in compliance of most, if not all, of the laws.

I'm wondering whether you would have any specific suggestions to the government on how, instead of a general expansion in audits, we better target the resources of the government to go after, as you say, the bad guys instead of the good guys.

Mr Woolford: I think in Mr Peters's report, he identified a number of ways of sharpening that focus. Certainly one is to go after non-registered sellers, which would be typically the kind of operators who appear at flea markets.

I'll give you just a by-blow from our sister association in the province of Quebec. They were concerned about flea markets as well, a couple of years ago now. For a while in that province, sellers at a flea market were exempt from collecting provincial sales tax, and they were allowed to be open on Sunday, when legitimate merchants in the province couldn't be open; so they were pretty unhappy about this. Then they found out, as they did some research, that in Quebec at least, a large amount of the merchandise that was being offered for sale at the flea markets in fact had been stolen from retail stores. They were a little unhappy about that. They said, "These folks come in, they steal from us, and then they get to sell when we're closed, and they don't even report tax on it." So they had a few concerns.

There was a certain alliance in interests between the Quebec Ministry of Revenue and the retail trade. So, yes, I think that what you do want to do, first of all, is focus on non-registered sellers, because in many cases they are less formally organized. They are not as professionally trained, as thoroughly knowledgeable about the requirements of the act. I'm not saying they're wilful evaders, but that opportunity for education and information is that much higher, so that's clearly a process Mr Peters has identified that we would support.

Secondly, I think within the small business community, there are probably ratios, typical industry standards for a typical ladies clothing store, a typical drug store, a typical lumber yard that when an auditor goes through in what Leonard calls a desk audit you can see whether this firm is within the ballpark. Do their sales look normal? Do their returns look within the ballpark? How does that line up with the corporate income tax return or the individual's personal income tax return? Is there evidence that there's something going on there? Again, you can narrow that for firms that have registered for PST collection purposes.

Equally, within the larger firms there are probably ways that the focus can be sharpened on to particular areas within the company that are problematic, areas where problems are more likely to appear. Again, the focus of the auditor can be directed to areas where there is scope for education, for sorting out what the appropriate interpretations are. That means working smarter rather than working more.

Mr Gilchrist: One other question. I appreciate that you appear to have a very solid position on the harmonization of the GST and PST.

Mr Woolford: We sure do. I sure hope your government will carry it out.

Mr Gilchrist: As a previous retailer, I can certainly agree that, if nothing else, the elimination of one entire set of procedures to have our office staff go through would have meant dramatic savings.

I address these comments to Mr Eisen, who does deal across Canada. When we talk about the complexity of dealing in the different provinces, many of the provinces continue to pay a small stipend to retailers to be tax collectors, in effect. I'm wondering whether if in exchange for the greater efficiencies that would be brought by harmonization there would be an opportunity to effect some savings for the government, and some procedural savings as well, because there are audits of that portion of the process as well, to no longer pay for that small stipend or honorarium for doing your tax remittance accurately.

Mr Eisen: I would say most retailers will try to do their remittances accurately, regardless of the stipend or not. In many of the smaller firms, while the stipend may not be a significant amount, any amount when you're struggling in a competitive environment helps defray a little bit of the overhead. I would not be so bold to suggest on behalf of certainly our franchisees that it be done away with. I think the ability to focus is more important. While every bit helps when you're in a difficult economy, I think the stipend, by and of itself, is not what drives the industry.

The need for understanding, the need to be able to take some of these smaller organizations that do not have the staff, where you have a husband and wife trying to make ends meet, where certainly in the food industry the wife may be the head cashier and the owner is the general manager, the butcher, the baker and whatever else, becomes a very complex situation. After putting in a 14- or 18-hour day, the last thing that crosses his mind is completing the appropriate tax return and getting it out quickly and on time.

Mr Gilchrist: I want to pass over the rest of my time to Mr Beaubien, but I would just like to get a simple answer from you, though. Do you think the savings that they would achieve by being able to eliminate, for example, the complete RST process would be greater than what they're currently receiving in terms of the stipend in small firms?

Mr Eisen: In my opinion, yes.

Mr Woolford: I would agree with that and de facto, if we went to a GST-type system. Under the GST rules today, merchants don't get any compensation for it. That was part of what was traded away when they brought the rate down. So I think if you made that shift to the GST system, the compensation that merchants get today would probably fall away to the side. Our members weren't happy when that was given up under the GST negotiations but, quite frankly, I think a lot of them accepted that as part of the process of the shift and I think you'd find that even the independent merchant for whom that few hundred dollars is meaningful would agree that it's better to have a cleaner, simple, single system than to get paid for running two competing systems.

1100

Mr Marcel Beaubien (Lambton): I do agree that there is one taxpayer. We keep talking about costs, fairness, avoidance, complexity, compliance, harmonization related to taxes. There seems to be an awful lot of discussion, not only today but in the past and I'm sure there will be in the future.

I'll make my point very quickly. Gentlemen, do you have any suggestion how the government could obtain its revenue through another means? We're continually discussing the fairness, the cost of taxation, whether it's federal, provincial, GST or retail sales tax. Why is it that we keep discussing it? Because there seems to be an awful lot of problems within the system. Do you have any suggestion of another way that could provide revenues for the government?

Mr Woolford: I think, as your party has pointed out so vigorously, Canadian governments have identified just about everything that can be taxed right now. I don't think there are any tax fields that are left unplowed, are there, Leonard?

Mr Eisen: I can't think of any.

Mr Woolford: I sure don't want to suggest any new taxes. My sense is that a consumption tax, as much as it hits the retail trade, is still a relatively good way of raising revenues for public purposes. The personal income taxes levied in this country now are just about as high as they possibly can get. There is no room for additional growth there whatsoever. Equally, on the corporate side, given the requirement for firms to be competitive worldwide, the scope for increasing those taxes doesn't exist. If you want to reduce consumption taxes, it's hard to know where that revenue would come from. For that reason alone, for the foreseeable future I think we're going to see governments collecting a consumption tax.

The other consideration, and in a sense I'm arguing against the interests of the retail trade here, is that a consumption tax is a relatively good way of collecting taxes because it does not affect individuals' decisions on investment or saving. A consumption tax goes on my consumption, not on my savings or my investment. Those are things that Canada needs very much right now. We need to strengthen the productivity and competitiveness of our economy and that requires investment dollars; it requires individuals to save.

Second, a consumption tax is something that I volunteer to pay when I buy something; if I don't want to pay a consumption tax, I don't buy the product. In that sense it's voluntary, in a way that it's not voluntary for me to pay a tax on my income.

Those are reasons why a consumption tax is better in some respects than an income tax on individuals or income tax on corporations. I hate to say it, because we represent the retail trade, who collect a great deal of sales tax and find that it discourages consumption, but at the very highest level of appropriate balance between taxation instruments, we don't have any choice, and second, it is a relatively fair way of collecting a significant chunk of revenue for the government.

Mr Dominic Agostino (Hamilton East): I apologize for being a few minutes late, but I had a chance to review

your brief. I'll just touch a little on where you just finished off, on the consumption tax. It wasn't a question I was going to ask, but your comments led me to that.

You believe in some ways it is fairer than an income tax provision. What is your view, though, on a choice between an income tax that is based on people's earnings and ability to pay and an across-the-board consumption tax with no consideration for ability to pay, particularly for necessary items that people have to purchase?

Mr Woolford: First of all, that's why governments have exempted many products from certain consumption taxes. Second, that's why they have a blend of both income taxes and consumption taxes. Third, we have seen at the federal level, for example, that they have put in place a GST credit, payable in advance, to account for the burden of that tax on lower-income taxpayers. We support all those design features.

Mr Agostino: The concern I have, obviously, is that once you open up the door, it's always up to government to decide which items are "necessary," and that ultimately is a judgement based on the political ideology of the government of the day, whatever that government might be; it would determine some things to be necessary for people while another government may not. I think there's always that danger, and a real inherent unfairness in a consumption tax is that it takes very little consideration of ability to pay.

Mr Woolford: In theory, that's the case, but as you look across Canada, as you look across the United States, there has emerged a remarkable consensus on what should be taxed and what shouldn't be taxed. The differences at the margin drive Leonard crazy. He can talk very feelingly about six muffins versus five muffins, a 125-millilitre tub of yogurt versus—Leonard used to have shiny dark hair before these things came in and I used to have a whole head of hair.

The differences between different administrations with different political stripes are relatively few. In fact, it's the smallness that drives many of our members crazy. It's things like products that are questionable about whether they're food or a snack, and there are a few other goods that are on the margin: books, feminine hygiene products, bicycles, other reading materials. The margins around which governments disagree are very small, so there is a broad public consensus in Canada as to what is necessary and what is not necessary.

Mr Agostino: We have Crime Stoppers, we have other public service programs in place; a welfare snitch line. Our concern is not the vast majority of honest retailers but the minority of individuals who are flouting the tax system and the tax laws in Ontario, as would be the case with most other government-type abuse. Would your organization support a system whereby there was a complaint line set up, highly visible, highly publicized, similar to the welfare fraud snitch line, that would allow people to call in and complain on retailers or individuals who are evading paying sales tax in Ontario?

Mr Woolford: I don't have any trouble with that. The concern would be that as a competitor, I might use that as a way of harassing one of my other competitors. Simply a phone call shouldn't trigger the whole weight of the ministry to come down on a firm. That might be a

signal to the ministry to do the kind of desk audit that Leonard talked about earlier, to see whether there is any factual evidence to support this expression of concern from the public.

Mr Agostino: But in general, with provisions of some common sense and responsibility in those types of investigations, you would support that type of setup?

Mr Woolford: What's your sense, Leonard?

Mr Eisen: Speaking personally, I have difficulty with those snitch lines, for the various reasons that Peter has outlined. But more important, it gives the impression, in my opinion, that the whole world is cheating, yet you're going after a relatively minor number of people. I'm not referring to the amounts as being minor, but the number of people going out of their way to be fraudulent. Speaking personally, I have a great deal of difficulty with that. There are other means. I still have faith in society that we have not gotten to that point that we have to turn and snitch on our neighbours. We found that took place in Fascist Germany for many years, where if you didn't toe the party line, a call would go out and before long you'd be visited by the SS. I have difficulty with that.

Mr Agostino: My concern is the consistency. Many of the concerns this gentleman just shared I have as well. It just becomes a question of consistency. If it's acceptable in one sector, is it acceptable in other sectors of society as well? If it's acceptable to have snitch lines for welfare, is it acceptable to have snitch lines for business fraud? That's a question I throw out to the government members.

1110

Mr Woolford: Can I follow up on that? I wouldn't want to leave the committee with the sense that, as an organization, the Retail Council supports a snitch line. I don't think we would oppose it. I think we have the concerns that Leonard has raised.

The other reality is that someone who sets out to cheat is going to hide it, whether they are a business, an individual, whatever. Entirely apart from the other issues that Leonard quite rightly has raised, this is a question of the efficacy of snitch lines, whether they do tell the government, the auditor, anything that is helpful. If I'm cheating on my taxes, if I'm misrepresenting my personal economic circumstances, I'm going to do what I can to hide the reality from people; I'm going to keep very poor books, I'm going to hide my true cash away somewhere, I'm going to operate in a way that makes it very difficult for anybody, including the auditor, to know what the true state of my affairs is.

For the moral reasons that Leonard has raised, there are some questions around it. Practically, I'm not sure it will give you very much. I don't think we would be opposed to it in principle, but I'm not sure it would do very much for you.

Mr Eisen: I should point out that anybody who has an issue can call the Department of National Revenue now. It may not be a dedicated line, but there are people prepared to take down information and follow up, so the lines of communication do exist.

I should also point out, dealing with the consumption tax, that the tax does not differentiate between the wealthy and the poor. If you buy a particular product and

it's subject to tax, both pay it. But as a matter of tax policy design and policy of government, various incentives and various credits can be designed, whether it be through the income tax system or otherwise, such as the GST at the federal level, so that certain underprivileged members of our society can be brought back to some bases of equality. At one end you are collecting and charging tax, but I think you get a better measure of your assistance costs through the tax system by having a specific income refund, if you will. There becomes a refundable component; therefore, I think you get a better measure and you're not melding the collection with the rebate.

Mr Crozier: Gentlemen, I'd like your opinion on something, since you have no, I suspect, political axe to grind from a practical standpoint in your experience with the buying public. We're talking here about a consumption tax. You've made comments that people will come to the cash register and when the tax is added on they find the price is too high and they may back off. You've mentioned that the consumption tax is voluntary; also that it's a tax that doesn't differentiate between the wealthy and the poor. I'm going to throw this out: Perhaps if there were less tax charged, there would be less avoidance; in other words, the more it becomes beneficial, the more you're apt to try and avoid the tax.

Right now in the province we collect about \$9 billion a year through the provincial sales tax. Although our points of view differ, I suggest that much of what is being done today by way of the finances of the province is being driven by a tax cut to what I would call the wealthy as opposed to the poor, notwithstanding the fact that the government is even going to borrow the money to do that.

If we reduced the retail sales tax to 4%, it would give back to the taxpayer approximately the same amount the government is suggesting we give to those who are better off, yet it would spread it across everyone who makes a purchase in this province. The amount of tax collected provincially through the sales tax would be less, therefore perhaps the avoidance would be less, and perhaps we would even have to do less auditing because there would be less money involved. Would you have any comment on that?

Mr Eisen: Mr Crozier, I believe that comes back to the comment I made a few moments ago. Within the tax system, if you were to maintain the provincial rate of tax but agreed to give back, whether it be three or four points of tax base, on a particular individual's level of income, you would accomplish something along the lines I believe you're prescribing, yet at the same time targeted to where the government believes it can be best utilized. Therefore, similar to the GST, certain income standards and levels have to be met before one qualifies. This would have a double-barrelled effect to the extent that many people today do not file income tax returns because they have no income. This would at least bring those people to the fore and, as I said a moment ago, put you in a better position to forecast your expenditure side and your revenue side.

Mr Pouliot: Thank you very kindly. The emphasis on consumers being a matter of choice—it's always a struggle between things one must have and things one

chooses. Under the proposed harmonization, a tax on home electricity and fuel oil—consumer choice? A tax on women's hygiene products—consumer choice? A tax on children's clothing, on footwear less than \$30, a tax on books—in many cases it's a matter of necessity, you will agree; it's a given.

Also, a shift from business to the consumer—there's no denying it. Also, the federal proposal includes a 1% flat tax on income. That's the reason successive governments have been reluctant. The retail sales tax, on projection, represents approximately 27% of revenues for 1996. Governments don't let go of revenues very easily; they know that.

Harmonization, if it were to be achieved universally in the context of 10 provinces and two territories, would be through harmonization. In this endeavour, you have to appreciate that people look over their shoulders to see what is being done here and what is being done elsewhere, because we have a movement north-south and east-west. Things change. Things move very quickly.

The federal government would wish to have harmonization, for reasons that are obvious. The business community, you've mentioned, would also wish to have it for the sake of simplicity. I take this, in fairness, from your focus, sir, and I choose to do some more homework in terms of the shift. Assuming we'll raise the same dollars, it becomes a matter of the style, the mechanics we use to go and get those much-needed revenues.

I agree there's a need to simplify, to make it far less complex. I too sympathize with the need to protect those who have less, the marginalized. We must not by virtue of good fortune be allowed to run away from the field. That's not very egalitarian and it should not happen. If that too is a given, then we both have to assume the responsibility. I'd like your comment, and please help me, candidly. You want to see the method simplified. You want your members, the people you represent, to have less of an invitation to—not to evade; it's not right to impute motives—but to say, "I understand the system and the more I understand it, it's more expedient obviously, and also I don't even have to be tempted. I know I'm going to do what's right because it's a one-shot deal and here's the money etc," without the shift. Where is the emphasis? Is it that the retailers would save money or is it to simplify the system and only pay to one source?

1120

Mr Woolford: Let me try and come at a couple of points. If anyone thinks that the customer is not paying the retail sales tax that the businesses are paying on their inputs, they're wrong. When a manufacturer, a distributor, a retailer pays retail sales tax on their office equipment, on their vehicles, on whatever, that gets built into the price and the customer pays for it.

The second thing is that it is tax levied on tax, as I tried to explain earlier. So not only is the shift from business to consumers not real, in fact it is helpful to the consumer in that that double taxation and that tax cascading is cleaned out of the system.

As I said, if you have a roll of paper towels, the manufacturer of those paper towels has paid retail sales tax and that's included in the price of the paper towels. If it goes to a distributor, the distributor has paid retail

sales tax on his or her inputs and that goes into the price of those paper towels. It goes to the retailer and the retailer has paid retail sales tax on his or her inputs, it goes into the price of the paper towels that the consumer pays.

Retail sales tax has been charged at four levels: the manufacturer, the wholesaler, the retailer and the customer. It has been added into the price at every point in those transactions and everybody bases their margins on that tax-included price. So if it comes from the manufacturer with one cent of retail sales tax in it, then it has extra margin added on to it at the wholesale level and another set of retail sales taxes added in. The next level, it's two cents plus the margin, and so on. There should be no question that the customer is paying the retail sales tax. So that shift is more apparent than real.

The second thing is there should be no doubt that in today's marketplace, if there is any reduction in the prices coming through the system, the retailer will pass those on to the customer instantly.

Mr Pouliot: Like they have in the past.

Mr Woolford: If you look at retail prices in the last five years, they have gone nowhere. Retail prices today on many products, and I think Leonard can bear this out, are lower than they were in the late 1980s. If you look at the profitability of the retail trade, it is awful. That's a measure of a vicious competition in the marketplace. That is right; that is good. It's excellent for consumers and it guarantees to them that they are getting very, very good prices. It is simply impossible, and I'd like Leonard to talk to this, if he would, today to pass on legitimate costs, let alone raise your prices because you want to make more money.

Mr Pouliot: At one time, I used to own shares of—well, Leonard, in your shop, Oshawa. I can assure you, without having scrutinized a book, that you've paid all of your taxes and beyond, for as a shareholder I was not the recipient of a vast fortune. I guess my reward was reading your glossy annual report.

Mr Eisen: On which we paid sales tax. I think, to expand on what Peter has just said, the position you'd find yourself in today, and certainly in the food industry, is that your competitors are out there and everybody who has a wagon, a horse, a corner is a competitor.

The ability to move prices is going to be dictated by the marketplace. You cannot work and function in a vacuum. When you consider that our industry makes \$1, probably closer to 90 cents, on every \$100 sale, it doesn't leave too much room for error, and one has to be particularly vigilant that the market you think you're serving and the customer who is coming to your place of business is retained, because obviously it costs a lot more to woo a new customer than to keep the customer you have.

Within the food industry itself over the last five years many prices have come down as various costs are knocked out of the system. You probably read in the press in the last day or so where one of the more profitable companies, Kellogg's, is going to take an \$80-million hit in order to downsize and continue to knock costs out of the system, and this is universal within the operations.

People in the industry are trying to deliver as good a product as efficiently and as cost-competitively as they can, and the cost-competitiveness is one that cannot be

overlooked. We cannot unilaterally move our margins unless we're prepared to self-destruct. You're facing whatever the market will bear to a certain extent, but it's on the downside, not the upside, because everybody is fighting for the same consumer dollar.

Mr Woolford: It's hard for people to understand how ruthless the customer has become in the last five years. They have seen their own personal incomes stay flat. Everybody in Canada today is concerned about the future of their employment. They're concerned about the health of the economy and the country generally, and that plays out in their purchasing behaviour very directly, so that the individual consumer who goes into the store is driven to take the lowest price, without question. Loyalties, past history, any of those considerations don't make one bit of difference. Consumers want to get the maximum return for their dollar.

I've got a wonderful story. I was talking to one of my members in Ottawa who has an independent lighting store. He had lamps on sale, 50% off, and a customer came in and wanted one and asked if he couldn't give her a better price than that. He said, "No, that's in fact my cost." She looked him in the eye and said: "That's fine. I'll come back and buy it when you're having your going-out-of-business sale." That's a measure of just how ruthless the customer is today. If the price isn't what the customer wants to pay, the product doesn't move.

Our members found that before Christmas, when they found that even if they offered significant discounts before Christmas, the products didn't move because, even though merchants had brought the price down in some cases virtually to their cost, it wasn't at the level where the customer was prepared to buy and the product just stayed on the shelf. It's a very, very tough market out there, right across the face of the retail trade.

Mr Eisen: If the committee would indulge me, one brief story about the new competitor who comes into the marketplace and has a great big sign: "Opening Special. Everything at Cost." The customers of course are flowing in to the new merchant and the oldtime competitor sees his competitor on the street and says: "I see you're doing a fair bit of volume. You must be blowing your brains out." The response was, "No, as a matter of fact the accountants were just in and I turned a small profit." He says: "Come on. I've been in this business for 30 years. How can you tell me you turned a profit when your sign says 'Everything at Cost'?" He says, "I buy below cost."

Mr Woolford: Is that your secret, Leonard?

Mr Frank Sheehan (Lincoln): I have three questions. Not having been a collector of retail sales tax, but I recall hearing, when people were making purchases, you had to give your retail sales tax number. What was the purpose of the vendor collecting that information?

Mr Eisen: Depending on the nature of the sale, if I'm purchasing product for resale I can buy under either an exemption certificate or a licence and therefore I do not pay the sales tax up front but must charge it on my taxable sale to an ultimate consumer.

1130

Mr Sheehan: Then I'm confused when you say that the paper manufacturer converts it into rolls, the wholesaler etc all added it on and didn't recover.

Mr Woolford: The paper manufacturer doesn't pay sales tax on the roll of paper, but they will pay it on—

Mr Sheehan: On the input?

Mr Woolford: They will pay it on the desks that they buy for their office. They pay for it in the gasoline that they put in the trucks that deliver the product somewhere else.

Mr Sheehan: But it's not on the product.

Mr Woolford: It's not on the product itself, so it's not a full 7% on the price, but there is a small component of retail sales tax in there.

Mr Sheehan: Okay. My next question is following on what Mr Pouliot started on. If you were to—what do you call it?—consolidate these taxes and if you were to reduce the exemptions to zero, like charge tax on everything, but having regard to what Mr Pouliot said about certain essentials, if you will, do you have it within your computing skills or your sales analysis skills to say, "Yes, we can put the tax on everything and we appreciate that that will bring in X dollars of revenue on items that were previously exempt, but because we're collecting the tax on a broader base the government's going to be revenue-neutral and the reduction in the amount of tax, what the people will be paying for these essentials"—can you balance that out?

I'm not expressing that very clearly, but let's assume, for example, that that's tax-exempt but this is taxable. We lower the rate of tax and apply it to everything. Can you balance out what the person is paying now here on this new item that's taxed with the amount that's saved on the higher item?

Mr Woolford: You couldn't do that on a store-to-store basis.

Mr Sheehan: No, it would have to be the industry.

Mr Woolford: Even within the industry that might be difficult to do, because individuals also buy things outside the industry. They pay their phone bills, they pay for their heating oil and for their electrical rates, they buy cars, that kind of thing.

I think the way Leonard described it is a better way to go, which is that whatever you tax, if you are concerned about the burden of that sales tax on certain individuals, you provide a credit through the income tax situation. The great strength of that, of course, is that it allows the government to flow revenue back to those who need it. Quite frankly, I don't need a rebate on consumption taxes that I spend on anything, whether it's a necessity or not. Someone who's making \$10,000, \$15,000, \$25,000 a year, the government may decide they do need a rebate.

Mr Woolford: And the way to do that is through the income tax system.

Mr Sheehan: But to calculate how much of a credit you should be giving them should have some foundation in fact, should it not?

Mr Woolford: But you wouldn't need to do it on a detailed basis. You could approximate that. What's your sense, Leonard?

Mr Eisen: I believe that over the years there have been a number of studies put out by various levels of government dealing with certain units of production and within various categories. I don't have that information handy, but there was an attempt made, certainly with the

introduction of GST and striking the base and looking at the numbers of exempt items versus taxable items, to see where the balance would take them. I believe there has also been a number of studies done on harmonization, which addresses that same issue. As I say, I don't have them at this time.

Mr Bob Wood (London South): To put it mildly, the GST has not achieved universal popularity, which comes to the point. There's really no point in talking about harmonization unless this thing has a certain degree of political acceptance among the general population. Do you have any suggestions as to how the GST might be changed in order to make it more acceptable to the population as a whole?

Mr Woolford: We've wrestled with that. Unfortunately, the way the GST was brought in created a lot of unhappiness and annoyance in the general public and it has carried that burden to this day. The fact that it is exposed at the point of sale makes it just a lightning rod for discontent.

I'm not sure how you bite that political problem. One way, obviously, would be to hide it, because what you don't see you don't worry about as much. As I say, we're not in a position as an organization to support hiding the tax inside the price, but from a political calculation point of view, I think that while there might be a fair amount of public concern about that at the time it was done, a tax that people don't see becomes by definition over time a good tax. As I say, I'm not advocating that; that's simply a political calculation that any government has to make.

It's hard to know how you do that other than to recognize that it's the right thing to do, to try and explain that to the public as best you can as a government, and go ahead and do it and just grit your teeth. We recognize it's a step that will not be popular. It's a step that will be difficult for any government to put in place.

The unfortunate thing is that it's the right thing to do. It's the right thing for the government in terms of its operations, in terms of the revenue it hopes to get. It's the right thing to do in terms of economics. It's a better way of collecting tax than a retail sales tax. But we recognize at the end of the day that we can explain those points till we're blue in the face and the public still won't like it at the time it's done.

Mr Bob Wood: Well, beauty is in the eye of the beholder. You think the GST is a fairer tax than the retail sales tax. The public doesn't think that.

Mr Woolford: We recognize that.

Mr Bob Wood: I'm inviting you to tell us, if we were to accept what you're suggesting, and by the way, there's no reason the federal government couldn't go to a retail sales tax. If the public likes that tax better, we can get the administrative simplicity you want by having them convert to our system rather than us convert to theirs.

Mr Woolford: The retail sales tax is not a good tax. It has a number of flaws that we talked about earlier. Especially from the point of view of the government, it's a lousy tax to have in place because increasingly our economy is moving to services and away from goods, and a retail sales type of tax is very difficult to place on services. Over time, the base on which the retail sales tax can be levied will be growing more slowly than the

economy as a whole, so that you will find it more and more difficult over time to collect an equivalent amount of revenues through a retail sales type of tax than you could through a GST.

Mr Bob Wood: That leads to my final question, and I hope you will consider what I have just mentioned. You think it's a better tax and the public doesn't, and you're going to have to do something about that perception.

Mr Woolford: We have tried. Retail Council has been very active in explaining the GST. At the time it came in, we made extensive efforts to try and explain to the public what the benefits of this were. We have worked with provincial governments across the country. We've tried to carry that message forward. We recognize that it's a very, very difficult sell. We're under no illusions there, Mr Wood.

Mr Bob Wood: Let me fire my last question at you. You suggested earlier that it was difficult to broaden the scope, which I don't particularly favour anyway at this time, of the retail sales tax. I don't understand why it's that difficult. Why can it not be extended to other transactions if we want to?

Mr Woolford: As you extend it, what you end up doing is taxing more and more service transactions, and those tend to be transactions which occur both between companies and other companies and companies and individuals. If the intention really is to capture consumer-type transactions, it becomes harder and harder to break apart what is a consumer transaction and what is a company transaction.

Legal fees, accounting fees, many of the other services that perhaps a government would want to tax are services provided both to individuals and to companies. So, from a taxing point of view, it is hard to break apart a consumer's consumption of legal services or any other kind of service as compared to a company's consumption of the services.

Mr Bob Wood: In order to raise more revenue, there's no problem in that.

Mr Woolford: Oh, you can do that, but then what you do is exacerbate that problem of double taxing and tax cascading, and that's a very, very bad way to run a tax system. Basically, you're ripping off the consumer. You're taxing them twice and in some cases you're charging tax on tax, and that's a very, very unfair way of operating a tax system.

1140

Mr Colle: Perhaps we're going to have to take some lessons from Steve Forbes in the States in trying to honey-coat the tax and revamp the tax system as a way of doing it.

I have a bit of a lateral question in terms of retail and how retail is facing what's happening out there. I've had some complaints from retailers who are advertising and they advertise liquidation sales. As you know, under the present legislation they're subject to fines if they advertise that without a special licence, yet there are people who are operating these full-time liquidation stores, liquidation outlets and liquidation centres. What are your retailers saying about this kind of restriction or competition, where they can't say they are offering liquidation sales and have to pay a fee to do that, or certainly regis-

ter that they are liquidating, as opposed to the established liquidation outlets? Have you had that kind of feedback?

Mr Woolford: Liquidation sales have been a significant problem for the trade in recent years. We've been pleased actually to see that the federal Bureau of Competition Policy has spent some time looking at precisely that problem. Primarily it's a problem of misleading advertising. They are advertising that they're liquidating merchandise when in fact they're not. The bureau has gone after a number of basically fraud artists across Canada who have been advertising liquidation sales when in fact they weren't, and they've secured a couple of convictions. It certainly has been a problem and we've been pleased to see that the appropriate enforcer in this case has been keying in on that problem.

Certainly there are reputable, responsible liquidation organizations and they have been doing very well because of the distress in the retail trade. We saw through the early 1990s a devastating round of bankruptcies and closures. That generated a lot of surplus merchandise, distress sale merchandise, which legitimate liquidators were able to pick up and sell at very, very low prices in their operations. That's legitimate competition. It's very hard for the traditional retailer to compete with those organizations, but at least they are genuinely selling merchandise that is being liquidated out of a firm that has gone out of business, gone bankrupt, or closed certain stores. The real problem for the trade has been people who have seen this as a way to essentially cheat the customer and offer merchandise which is not being liquidated, and therefore they attract the customer essentially on false pretences. That damages the trade. It damages the reputation of legitimate retailers. It steals sales from them. It drives margins down even further.

I don't know if you have noticed it in the businesses you're in, Leonard, whether that's been a significant problem or not.

Mr Eisen: It hasn't been a problem to the same extent as the general merchandise field. But there have been for many years liquidators who have bought product that has been damaged either in the warehouse or in the process of manufacture and is sold as distress merchandise. To say that these have hurt sales, anybody who takes a piece of the action hurts sales. But at the same time, they are serving a need for a product which is still usable, has passed the Department of Health standards and isn't going to kill anybody and is being sold at a price to certain people who are prepared to buy substandard merchandise. They know what they're buying and are paying accordingly.

Mr Pouliot: I keep going back to your presentation, and if there is one message that comes through, simply put, you're expressing a certain fear that—you even mention the word "harassment." If I were a cynic, the dark side of me could perhaps go as far as to say that some retailers would view Revenue Canada and Revenue Ontario as organized crime entering their premises.

Mr Woolford: Perish the thought.

Mr Pouliot: These people are for the public good, and then you privilege us with the proverbial wisdom; you go as far as to say that the majority of retailers are honest people and no doubt love their mothers, the Chair, and all

the good deeds out there. I would hope the majority, for they have nothing to fear.

Mr Bruce Crozier told us about his story earlier on, and it became a matter of record—in fact, we might have a chance to examine those records—saying that in some 20-odd years, twice he was the host when the government audit branch, if you wish, on behalf of all taxpayers, came calling. In my case, I'm a T-4 person. I get one note, two words, from Revenue Canada. It says, "Please pay." I don't have anything to hide. I can't hide.

You've done very well in saying, in presenting us with the obvious, that whatever charges comes out in the wash. Well, government operates the same way. It needs so much money to operate, and if one retailer does not pay, it taints the organization. It doesn't give it a very good name, does it? It's the same as if one taxpayer doesn't pay, somebody has to pick up the slack. In fact, our neighbours to the south have exercised over the years much-publicized vigilance in going after taxpayers. My understanding is that Al Capone went to jail for tax evasion, and there were others.

You represent an important element, not only as taxpayers but also as the toll, if you wish. You receive taxes on behalf of government and government wishes to make sure, as the intermediary, that the money that you receive gets passed to government, which is a normal reaction. In this context, you don't produce anything; you don't sell anything. You're asked to be a perceptor of taxes. The alternative is to have the government do it. The government cannot do it with every consumer. It would be foolish. It doesn't have the resources. It would eliminate the purpose.

If you were the government and if you could focus on two or three items that would alleviate your burden, where would your priorities be? If tomorrow the government of the day calls an election, issues the writs, and you get in, and your priority would be your presentation—you would have the power to apply legislation—where would your recommendations be to treasury? What would you do? Two or three or four items.

Mr Woolford: I think we would pick up on exactly the points that Mr Peters made in his report, taking some time to develop tools that would enable the auditors to work smarter, to be more precise in selecting targets for auditing.

What would those be? As we've tried to suggest in our submission and as Mr Peters has identified, looking at non-registered organizations, those who are not now registered for sales tax collection, and developing tools that would allow for the auditors to identify firms within the retail trade, within other industries, where the likelihood of non-compliance, for whatever reason, is higher. So we would be looking at firms whose internal accounting systems don't appear to be terribly strong, whose reports don't appear to make sense, whose pattern of reporting is outside industry norms, so that the auditor can spend his or her time more in areas where you can improve the compliance of the industry.

1150

We certainly would not suggest and we do not think the government should stop auditing. We support audits. What we would argue and what we would put a priority

on, I think, is that those audits be focused in areas where there's the greatest scope for return to the government and for improvement in compliance this year and in future years. So you spend more time with firms that are clearly having trouble complying and you spend time teaching them the tools and the skills they need in order to comply better.

Do you have any other things you'd want to add to that, Leonard?

Mr Eisen: I think that pretty well covers it. I would also direct thoughts to the fringes of industry, not specifically the retail trade but other parts that are very much involved in collection and payment of retail sales tax that are often not focused and do not have the resources and are unidentified. Within the Retail Sales Tax Act there is provision for door-to-door salesmen, as an example. They're supposed to be licensed and they're supposed to be carrying their licences with them when they come knocking at your door. I wonder how many people are actually doing door-to-door selling who are not properly licensed and whom Mr Peters, in spite of all his efforts, would not be able to identify at this time, who may be selling on behalf of a province, for delivering into the province.

The Chair: Gentlemen, just before adjourning, Mr Peters has asked to raise one final matter with you.

Mr Peters: Thank you very much for appearing here. I'm very grateful to see that we are so much in accord on so many issues, and even where you say you're in disaccord I think it would be very helpful to everybody who has heard from you.

There's one other question. As you know, under my mandate I cannot talk about effectiveness, but there's one particular question that I wondered if you could help the committee with. That is, how would you rate at both the individual level of your members and the organization level of your council the quality of the dialogue which you can enter into with the Ministry of Finance to make your views known, your concerns known, at the administrative level of government?

Mr Eisen: Mr Peters, let me first off say that, again, like retailers who are complying, the quality of the people at the management level and at the audit level for the most part is good. Like everybody else, you have good auditors and not so good auditors. Some go about their audits with a degree of fervour that sometimes is not warranted, but they're trying to do the job they can and what their mandate dictates. I certainly, over the years, understand the effects of trying to do the best job you can. I certainly have always found that I've been able to talk to people at the administrative level. We don't always agree, but we've certainly had the opportunity to express opinions.

The quality of the field auditor, like anybody else, and you find that in commercial audits also, varies. If one were to give an overall rating to the field audit, I'd say good; some excellent, some not so good, but generally good. I would put the same reading on the management personnel. But they're always approachable. We may not see eye to eye, but we can at least talk about the differences.

Mr Woolford: What I've heard from talking with our members is some concern that in recent years the more

experienced auditors, both at the provincial level and the federal level, have tended to leave and move into the private sector, leaving an audit staff which is a little less experienced, a little more junior and a little less knowledgeable. That has meant, particularly for larger and midsize firms that have professionals on staff—some of them tell me they feel like they're training the auditor in what the requirements of the law are. It can at times lead to some wrangles as to what the true interpretation is.

In smaller firms, to the extent that the audit staff is less experienced and less knowledgeable, of course you get kind of random results where the firm being audited itself has not a perfect grasp of what the rules are, and the auditor himself or herself on the field staff may not be as experienced as they should be and therefore produce results which are essentially aberrant.

In terms of Retail Council's relations with the ministry, I think we've had very good relations. They have always been very open to us. As a staff person anyway, and whenever I've sought access for our volunteer members like Leonard, they've been very open, very professional in their dealings with us, both on policy issues and on administrative issues.

If I have a concern, it's that in recent years we have not been able to do as much on the administrative side as we would have liked. We probably should be spending more time talking with the administrative staff and trying to sort out some of the differences and clarifying some of the issues where there are natural varying points of view so that we can get some of those resolved before they become problems in a firm's audit. That's just a to-do that I guess is on our list as members of the retail council tax committee as much as it is on the to-do list for the ministry.

Generally, I think the story I have back from the members is that the auditors are by and large pretty good. There is a sense that some of them are a little overly aggressive in their behaviour, that some seem to feel their principal job is to scrape up money for the province rather than either improving performance or improving compliance. Some of my members get quite excited after one of those audits when they call me, so that problem certainly exists. We recognize it's going to exist in any organization. Any organization has good people, has bad people, and the great majority are more or less in the upper half of the middle, if you will. It's a reality of life. It's a reality of any large organization.

The Chair: Mr Woolford and Mr Eisen, I want to on behalf of all the committee members thank you for spending so much time here with us this morning. I understand you were here on the understanding that you'd be here for about a half-hour. We have quadrupled the amount of time here. Thank you for sharing your time with us and for enlightening us.

The committee stands adjourned until this afternoon.
The committee recessed from 1158 to 1531.

The Chair: Good afternoon, ladies and gentlemen. Welcome to our continuing hearings in the standing committee on public accounts. Today we're looking at the matter of section 3.07 of the 1995 annual report of the Provincial Auditor, dealing with the tax gap.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: This afternoon we have representatives of the Canadian Federation of Independent Business. Welcome to the committee. Would you please introduce yourselves, and I gather that you're going to allow time for some questioning. I also understand that you are prepared to stay until approximately 4:15, 4:20.

Ms Catherine Swift: Yes. If need be.

Ms Judith Andrew: Thank you, Mr Chairman. I'm Judith Andrew. I'm the director of provincial policy with the Canadian Federation of Independent Business. With me today is the federation's president, Catherine Swift. We're very pleased to be here on behalf of CFIB's 40,000 members in Ontario. Ours is a national business association that represents 87,000 members across the country.

We're pleased to be here to convey our members' concerns over retail sales tax collection issues. Certainly, these issues are very important to small business for a number of reasons. Any tax that has an impact on the economy generally is one that will in turn affect the small business sector. Retail sales taxes are by their very nature regressive, as they penalize those consumers who tend to spend a higher proportion of their income. Retail sales taxes also dampen consumption, which does reduce the money that can be recirculated through the economy, boosting expansion and job creation.

As small firms in the taxed areas also act as the tax collector for the government, compliance costs are incurred by the businesses and they are never fully offset by the government compensation that's available. We have found certainly in our research, and other research has shown, that the vast majority of the compliance costs of a particular sales tax is borne by smaller businesses that tend not to have the specialized resources that a large firm would have to deal efficiently with the sales tax collection. Generally, in a small firm it's the business owner himself or herself who is often the person who has to deal directly with the compliance, and this is hardly an efficient use of the business owner's time.

One other aspect to sales taxes is important. Small business is the contact point for the consumer, and this places the small business owner in the unfortunate position of being on the receiving end of the consumer's wrath for having to collect a tax which wasn't of their making. For all these reasons, sales taxes do have a dampening effect on the small business sector, and given that small firms have been the principal job creators in our current economic environment, the negative impacts of sales taxes on small firms do have implications for the economy overall in terms of job creation.

I would like to also introduce another document to you for your reference, and we may need to refer to this in our discussion, but you have a research document entitled *New Signs on Main Street* in our kit. This was a special survey conducted by the federation on retail and service sector firms, and you will see that it delineates a number of the major concerns of small businesses in these industries.

Figure 1 on the front page of the report shows that sales tax, at 70.5% response, is a major issue for small

business and certainly the number one that showed up in our survey.

I'd just like to ask Catherine to continue.

Ms Swift: We've done a lot of research on underground economy issues over the years, and I'd just like to briefly go through some of the factors—not just research that we've done but pretty much in concurrence with research that's been done in other countries around the world on these issues. Naturally, sales tax policy is a key factor that determines the extent of underground activity, notably, naturally, the level of the sales tax, how high is the sales tax? Generally, I think most of the research has concluded that something in the 10%-12% range tends to be a bit of a ceiling beyond which leakage—of course it's cumulatively I'm talking about, because now we've got in Ontario, for example, 15% cumulatively. At that rough point, depending on the system, you tend to get so much leakage that indeed sometimes governments find they increase the rate and actually get less money. That's been a reasonably general feature, I guess, of a lot of the research that's been done in this area.

The structure of the tax is also important. Ontario PST, being a single-stage tax only levied at the retail level, is generally conceded to be "leakier" or easier to not pay in one way or another, whereas multi-stage or value added taxes, things like the GST is, do tend to be tougher to avoid because they are being imposed at several stages. Of course, that's the whole point of having a tax of that structure: to reduce non-compliance to the extent possible.

We find too, particularly with the small business sector, just the general burden, a cumulative burden of regulation and legislation that's imposed on businesses in the economy, is also a big factor. One particular added piece of regulation or whatever may not, in and of itself, seem particularly worrisome, but when you add the whole burden up, that's what really tends to matter. So naturally, if you have a highly regulated economy which is very costly to a small firm, for example, then you're going to have cumulatively a higher incentive for that business person to try to reduce his or her costs, and they may choose various ways of attempting to do that.

Another factor, of course, is the general state of the economy. In 1991, when the GST was introduced, there's no question the GST itself instigated an awful lot of resistance to paying taxes, but there's no question that its coinciding with a very serious recession doubled the whammy, as it were, in terms of the effect on people just not having as much disposable income for more than one reason.

We in Canada also have the geographic reality of our proximity to the US, with such a major proportion of our population within a reasonable distance of the US border that when we have such things as a high dollar, which was also around in the early 1990s, cross-border shopping becomes another means of avoiding sales tax.

Most of the surveying that we've done of our members on these types of issues did occur after the introduction of the GST and the couple of years following the introduction of the GST, so I guess it's a little bit out of date now. It's not perfectly applicable to PST issues but I

think it still does provide some help in how small business perceives these questions.

What we found, looking back at this research, was that we even had a slightly greater sensitivity in Ontario than our national average in terms of their perception of the underground economy being a serious problem for their business. Again, this particular chart that's on page 3 talks about why business owners believed that the underground economy issue generally was a serious problem for their business. As you can see, the most significant factor was the perception that the total tax burden was too high for consumers and therefore consumers felt pushed over the edge and were not wanting to pay the GST.

1540

The second factor there—actually, there's sort of a dead heat between the GST encouraging bartering or ways to get around conventional transactions and also consumers simply finding better prices in a more underground or informal economic context. Finally, just general consumer resistance to the tax was also viewed as a significant factor.

Finally, something that's always worth keeping in mind on these issues, is that the extent to which taxpayers believe their money is being well spent by government is always a subjective but important factor in how willing consumers are to comply with the payment of taxes.

We found again, looking around the international community, you have countries like Switzerland which have really quite high taxes but don't seem to have a serious underground economy problem. We believe that part of the reason for that is that that country actually has plebiscites on major changes in taxation so that people at least feel they have been consulted.

We feel a lot of the non-compliance with the GST wasn't just because this tax was unwelcome—I don't think one would ever have a welcome tax—but also because of the way in which it was passed by that government. You might recall the Senate was stacked, we had kazoos, there was all kinds of absurdity surrounding the introduction of that tax, and given the fact that it was introduced at a very bad time for consumers, at a relatively high rate, coupled with the procedural sleight of hand that was used to bring it into being, we think all of these factors contributed to consumers' resistance.

When we look over what's happened in this province for the last 10 to 15 years, I think we can agree that all of the factors that I've mentioned have been indeed present in Ontario: high taxes, a high degree of regulation, a number of economic dips and consumers who increasingly had less and less confidence in how government was spending their money.

We're aware that a major focus of your review is to try to look at the extent of retail sales tax avoidance. We have in the past attempted to do some quantitative work on this. Of course, it's always like trying to nail Jell-O to the wall, as they say, trying to measure something that's invisible. We don't, unfortunately, I guess—I don't know if it's unfortunate, but we're not going to make any stabs today at any kind of updated estimates of underground economy size or whatever.

We find that our anecdotal evidence that we get from our members on a regular basis is pretty reliable as to

what's happening out in the economy. We have, as Judith said, 40,000 members in Ontario. If there's a problem, you can be sure we hear from a lot of them. We actually have had fewer complaints and problems from our members exhibited over the last couple of years than we did in the early 1990s.

Again, the GST clearly triggered an awful lot of impacts; the recession exacerbated them. But we've found, as the economy has improved somewhat—not wondrously, but improved somewhat over the last couple of years—we have had growth. We believe also the fact that governments have started, in most instances, to get a grip on the fiscal problems and to maybe give people a little more confidence that they're not just increasing taxes like mad and spending the money irresponsibly, things like our dollar having fallen dramatically to where it was a few years ago. All of these things, in our view, have contributed to there probably being less tax avoidance now than there was back in the early 1990s.

In terms of what we would recommend from our perspective on sales tax measures that could be considered to improve sales tax compliance, the obvious one is basically taking it in reverse direction from some of the things that are causing it in the first place. As I've mentioned, governments are getting a grip on some of the fiscal problems; we haven't seen any significant tax increases in a number of years now, which is obviously positive; we believe that tax reductions that are planned by this government will contribute positively again to having people feel that tax compliance is a positive thing and that the government isn't working against their best interests; and certainly, generally measures to overall streamline the kind of paperwork that small firms in particular deal with, trying to reduce the overall level of red tape in the economy, not simply that pertaining directly to sales tax. These measures all should contribute to further improvement, in our view, of the extent of sales tax non-compliance.

The whole issue of compensating small vendors is one that has been around for a long time. Ideally, of course, one would have a simple enough system that compliance costs could be extremely minuscule. We do have a system, as I'm sure you're well aware, of compensating vendors in Ontario right now and this was last increased back in 1991. So something that might be contemplated to facilitate compliance for small businesses is the notion of possibly an adjustment in this compensation level to conform with other cost increases in the economy. So we'd throw that out as a possibility.

One particular issue as well that we felt was worth noting that we actually have been hearing more problems with in the past couple of years than we had previously was the whole issue of tax treatment of the sale of tobacco on native reserves. This is becoming a growing problem, certainly gauging from the amount of input we're getting from our members on this. Naturally, it was diminished somewhat with the tobacco tax changes that took place not too long ago, but it nevertheless is an ongoing problem.

Something that the province of Nova Scotia has recently done—which is extremely early days, so I wouldn't want to judge it; we don't know how it's going

to work but we think might be worth considering in this light—is that they have moved to collect their PST at the wholesale level on tobacco products. They believe that this policy, coupled with quotas for tobacco sales on reserves, together will reduce the incidence of unfair competition, because naturally those who are selling tobacco products off-reserve are at a serious disadvantage and obviously sales tax compliance generally from the government's perspective should be enhanced by such a policy. So it's very early days for this. We don't know how well it's going to work but it might be worth seeing what they're doing there and, if it does work out to be a workable policy, contemplating something similar here.

I want to make a few brief comments on the whole GST-PST issue. We've been following some of the testimony before this committee by others and we know this issue has come up a number of times. Naturally, this has been a very important issue for small businesses since the inception of the GST. We have a big mess of a system right now, to put it mildly, and small businesses are paying an inordinate amount of compliance cost, both in time and money—and time is money, as we all know—and we find also as our members typically are very often dealing with these issues themselves as business owners, it is a particularly poor use of owners' time to be having to deal with inordinately complex and costly compliance because we do not have a sales tax system that is well designed.

In terms of what can be done on the GST, I think all governments have been struggling to varying degrees with this over the last few years. Harmonization is certainly a technical possibility; one has to wonder at this point if it's a political possibility. I guess we'd like to think everything's possible, but so far we haven't had a whole lot of luck and somebody always has a provincial election and the timing will always have difficulties attached with it.

In any event, that's still naturally a proper harmonization, because not all harmonizations are equal, as we saw with the first stab in Quebec. But a proper harmonization that was accomplished efficiently would still be preferable to the current mess that we have.

We think too, though, there are some other options that should be considered. Some, naturally, would require coordination between the federal and provincial governments, but such options as the federal government perhaps even completely abandoning the sales tax field to the provinces, having some kind of offset with respect to whether it's transfer payments, possibly excise taxes, other tax adjustments, to ensure that the revenue isn't totally forgone at the federal level, which wouldn't be very realistic.

So we think there are a number of options that could improve upon the current poor system that we have with PSTs and GSTs based on such different bases, rates, other aspects of their systems. But the commonality is that we think certain principles have to be adhered to in any reform that would be supportable by the small business community, and the principles include that the reform can't be a tax grab—and certainly in Ontario we know if we harmonized at 15%, there would be a considerable amount of excess revenue going to the government.

1550

We can't have different rates in different jurisdictions. We feel if we're just going to end up with a harmonized system but nevertheless have different rates in the different jurisdictions, then we've still got a big mess. If we're going to fix it, let's fix it properly. Let's not do another jerry-rigged job on sales taxes. Small businesses have already been forced to make a very costly transition to accommodate the current system, which is a disaster, but the notion of going through yet another changeover to have a perhaps marginally better system just isn't on. We feel unless it's going to be improved significantly, it's not worth going through the hoops yet again and incurring all kinds of additional costs for not only small business but, I suspect, the economy overall.

Just in conclusion, from our perspective—and, again, it's not terribly scientific, it's just based on the feedback we get, but we have found over the 25 years we've been around our anecdotal evidence tends to be pretty good—we don't think compliance issues are probably as serious now as they were three or four years ago, because of a number of factors: the economy, better government response to taxpayer concerns etc. However, we certainly believe that there is undoubtedly still a sufficient level of non-compliance that it is of concern to Ontarians and the government. We have always said that the government should certainly enforce the law as it stands, but I think the flip side of that is that obviously there are diminishing returns to additional auditing, as we know from the research around the world. When you get to a point of spending a dollar to collect a dollar, as is often referred to, it's gotten a little absurd. Clearly, throwing auditors at the problem is really treating a symptom. We feel if you treat the true causes of the disease, you'll have a much more enduring solution than simply cranking up the bureaucracy, and of course the costs associated with that.

I'll just conclude there and I'd be happy to take any questions you may have.

The Chair: Thank you very much. Committee members, there's between eight and nine minutes per caucus available for questions. We'll begin with the official opposition.

Mr Crozier: Welcome. I was interested. You said your association has been in existence for 25 years, so I guess the retail business I was in, we must have joined you at the inception, because for many, many years, in the lumber business I was in, we were part of the CFIB.

You've covered a number of areas, and just the one I'd like to touch on in is, in your brief you've mentioned the levels of taxation and maintaining them at their present rates, if not decreasing them. It's that I'd like your opinion on. I asked the same of the Retail Council of Canada this morning. Of course, we're dealing with a consumption tax here, which is voluntary in the sense that if you don't want to pay the tax, you don't buy the merchandise—on some discretionary items. I suggested if we could think of it in the context that if the tax bite were not so great, perhaps there would be less incentive to try and avoid it. Having said that, it also doesn't differentiate between the wealthy and the poor. If you buy something, you pay tax on it no matter what your level of income is.

The tax cut that's being suggested by the government to be so necessary is in the neighbourhood of \$5 billion, and we collect about \$9 billion a year in retail sales tax. What would your opinion be, the political ramifications aside, if the government were to come to you and say, "Would it stimulate the economy more if we reduced the retail sales tax to a 4% level or if we went ahead with our income tax cut?"

Ms Swift: That's a tough one to answer off the top of my head, simply because I think you have to look at tedious economic concepts like marginal propensity to consume and so on and so forth. We have also not as yet seen the design of the income tax changes, because obviously how those are designed and where the savings go—the majority of the dollar savings are going to go to people making the lower-income levels, even though there's certainly been a lot of attention on that person making a million bucks a year, none of whom I know. But I think it's kind of tough to say categorically how the two would stimulate the economy. They both clearly would stimulate the economy.

Taking it off sales tax, would it cause people to consume more or would they save that? You know, this is the question. I don't know the answer because I don't have the up-to-date data, and you'd have to guesstimate anyway, because it would be a forecast. But would they consume the difference or would they decide to save it or use it in some other way? The same with an income tax saving. I think a tax reduction of any kind would be good, because I think Ontarians rightly feel they've been taxed to the hilt, small businesses and consumers alike, but I think it's tough to say in a straightforward, simple manner. You would have to look at (a) the design of the income tax changes, which I haven't yet seen, and (b) how much you would assume of the PST reduction would actually be consumed. You can't say it would all be consumed. There's no suggestion it would all be consumed, but certainly a major proportion of it would be. Not to be evasive, I think it's tough to come up with a nice, clean answer on that one.

Mr Crozier: I am a little bit surprised by your answer. Right, we don't know what the income tax cut is going to be. We do know, though, at least at this point, according to a table that was put in literature that we've read, that the more you make, the more you're going to get back.

Ms Swift: But that's the nature of our tax system: the more you make, the more you pay proportionately.

Mr Crozier: That's right.

Ms Swift: So that's the arithmetic.

Mr Crozier: The point being that then becomes discretionary. You may save it. We may pay down personal debt, because it's the highest that it's ever been in our history. But what I thought you might speculate on is the fact that if you spend, if you buy something to which retail sales tax applies and it costs you less than it did before, that may tend to stimulate buying more than just simply giving me a cheque back or giving me a credit on my taxes which, if I have a sufficient earnings level, I may just go out and buy an RSP with.

Ms Swift: Yes, but you also might buy a car.

Mr Crozier: So I just thought from the stimulative standpoint, from the idea of how the economy works, a

sales tax would appear to be, on the surface, more stimulative than another tax that goes to a different class of people rather than everyone and that is more discretionary in how you use it.

Ms Swift: I think it's tough to say—

Mr Crozier: I appreciate what you're saying. I'm just a little surprised that it didn't centre on that stimulus.

Ms Andrew: I'd just like to add that when we did see the sales tax raised by 1% in Ontario, and I've forgotten what year that was exactly, we heard from our retail members in spades about their concerns. It certainly is very devastating to retailers when the tax is raised, and so I just want to make that point.

Mr Crozier: That's who you represent, right?

Ms Andrew: We represent businesses across all sectors of the economy.

Mr Crozier: I see.

Mr Colle: Just quickly, by the way, we are looking at the Nova Scotia example to see how it is affecting tax avoidance. We note here in a document we have received that they have now removed the tax on the retail end of tobacco sales and just moved it to the wholesale and increased that.

Ms Swift: That's what we understand, yes.

Mr Colle: It'll be interesting to see what the effects are of that.

Ms Swift: Yes, but it's early days.

Mr Colle: Yes. The other question I have is, I noticed one of the real exposure problems for retail is bad cheques. Do you think this new direct Interac system is going to dramatically reduce that type of exposure for retail?

Ms Swift: Yes. We've actually had some pretty positive feedback on it so far. I think the best indication of that kind of thing is the take-up we've seen. You've probably noticed as a consumer yourself—I certainly have—that there's been a really rapid take-up, even in relatively small retailers, of the Interac debit card kind of system. So we would hope ultimately, once that becomes truly pervasive, and it's going pretty quickly now, that the NSF cheque would be a thing of the past.

You're absolutely right. It was not only grief, because of course the retailer was out the money, but also the bank dinged them with an incredible service charge when they got the thing back. Unbeknownst to them, it was a bad cheque. So yes, we're hopeful that will do away with it, but we're also wary that the Interac system access does not cost so much.

1600

Mr Colle: Yes, service charge. I think it's 50 cents a transaction, isn't it?

Ms Swift: It differs according to volume of business and what not. But our guys always, of course, pay the most.

Mr Colle: But I wonder if this will have an impact on reduction of tax avoidance, because there would be more of a record of transactions in retail, whether that might have an impact on that or not.

Ms Swift: I don't know. So much of it, from what we've heard from our members, is pushed by consumers. The merchant is put in the position of the consumer saying, "What's the cash price?" or whatever the euphem-

ism used is, and the person is put in the position of losing the business or whatever. So the extent to which one can reduce the consumer's incentive to push for those lower prices, however achieved, in our view—and again, all those factors we mentioned are part of that—will be the real determinant.

The question with Interac or debit cards in general I guess is, how much do they replace cash? Probably to some extent. I haven't seen any data on it, but I'm sure to a considerable extent. I know personally they have in my wallet. The extent to which you'll have fewer cash transactions, yes, I think that will reduce the ability of being able to avoid taxes.

Mind you, that segment of the population, however large it is, that does tend to go in and say, "How much for cash?" they're the ones that are not going to use the Interac too much. I think that's something we'll probably have to look at a couple of years down the road when we've had enough experience with Interac. But it has the potential to do that, sure.

Mr Pouliot: I need your help. In the last seven to eight months, my circumstances as a consumer have been impacted, well, negatively. I now live a rather spartan and frugal existence.

Mr Colle: They took away the limo.

Mr Agostino: The limo and the cabinet salary.

Mr Pouliot: Therefore, by way of necessity, I have become a very small consumer. But we're blessed today with expertise, and I thank you people who represent such a large membership and are the front line of benevolence to consumers. My question is rather philosophical. I read your brief and also the brochure. For a second I thought I was getting a brochure or a press release from my friends the official opposition, but it's not so.

American Express does not receive a very high rating, and yet it is the official card of the Ontario government, the government of the day, for instance. I see "Merchant Costs of Accepting Credit Cards." You don't do very well there. I'll come back to credit cards.

I also see the terminology. This is not my mother tongue, but I'm learning English. I can see here that you have the "informal economy"—the convenience of synonyms—in lieu of the "underground economy," which is the theme that is being addressed here. But "informal" gives it sort of a halo of, if not sanctity, "Nudge, nudge, wink, wink"—an acquiescence.

Then, as I keep on reading the brief, now that you've set the table, you circle the wagons—GST, that dreadful, very visible tax. Then we go on to, not compounding, but also adding to it the RST, the retail sales tax, which incidentally is 27% of projected revenues, a big chunk. Then, being a professional and being very polished in your presentation, with respect, you inform us that a 30% provincial income tax decrease—and we don't know where it's going to go. For some, it will trickle down, you're right, although into Switzerland, I imagine. Some will be spent, some will go to RRSPs.

I would have liked to have also seen the same candour in trying to reach an equilibrium here, because we're trying to say, "Why is it that things are not being done?" Well, consumer debt is at a record high, I believe. Plastic, the 16% to 17%—never mind these, they're low—in a

direct relationship of a CIBC Visa etc. People are taking money out of their savings. Savings are at, if not an all-time low, a recent low. They're even cashing in their RRSPs in record numbers. I don't know what the mean for RRSPs is, but it's about 16% of what the pool would allow, if everybody did participate. You would also be taking \$10 billion out of the economy if you were to balance the budget in this term of office, plus the \$5 billion, so that's \$15 billion—\$5 billion that fills your pocket and \$10 billion that leaves your pocket. It's quite a bit.

My question is this: We always search for a bargain. I think cross-border, which has, to all intents and purposes, if not been eliminated—you have to be more selective. There are fewer bargains to be had. As a consumer, if I can go and see you and you're a small entrepreneur, regardless of what the tax is, because I'm under a state of seige and I must get the best value for money that I want to get, is it easier the second time around? Or is the focus because of taxes or because of this, or is it not like a flea market in Madrid and other countries, that you do it as a matter of style after a while? If you've done it two or three times, bartering very much becomes part of your philosophy at the marketplace.

Ms Swift: That's the risk. I don't agree with a lot of your preamble, so I don't want to have it on the record that I do.

Mr Pouliot: That's okay, madam. I wouldn't wish you to agree, with respect.

Ms Swift: But I'm not going to bother addressing all of the issues. It's too much off topic for this committee here today.

In a previous brief that we submitted, back in 1993, on the underground economy, we actually got into that very issue. I didn't belabour it. October 1993—it was the committee on finance and economic affairs at that time that looked into the issue of the underground economy generally. We did mention that very fact that in other countries which have had, say, VAT—VAT in particular, as we know, like the GST, are major incentives to increase underground activity. This has been well established. There has been very much a tendency in other countries that once people get into a habit, or whatever you want to call it, of perhaps working in networks that are underground—and, by the way, the "informal economy" is a very well-established term in the literature to refer to these. We didn't cook it up because it sounded good; it's a very, very accepted term in all of the literature on this. But you do find, once people do get accustomed to operating in a certain way, yes, there's definitely a hangover effect even when your original conditions—say, you dropped the PST to zero, just for the sake of argument, and so on, but you still had obviously other costs that applied, then there would still undoubtedly be some people who would.

However, given that we can't change history, I think at this point what we all have to try to be doing is—okay, in our current environment we've definitely had a higher level of underground activity in the country, not just Ontario, after 1991. We believe, like I say, because of our anecdotal—granted, not scientific but anecdotal—evidence, we probably have fewer problems now than we

did three or four years ago, but nevertheless higher than pre-GST. Where can we act to try to reduce the problem? That's, I guess, the issue that we were attempting to address today. But I don't think there's any doubt that you're always going to have an underground economy of some magnitude. You try to minimize it, for all kinds of good reasons, and I guess our objective today is how can we minimize it yet further from the level it is now. Because we also don't in Canada have a problem anywhere near as serious as we know exists in a lot of other countries.

Ms Andrew: I would just like to add that I think the Department of Finance's approach with matching databases and so on will probably turn up some things and it would be rare that a business would be completely underground in absolutely everything and so forth. So those kinds of initiatives to uphold the law will likely be effective.

1610

Mr Beaubien: I'll refer almost to the same question I asked this morning. We've talked about taxes, about avoiding taxes, harmonizing taxes, the fairness of taxes—we keep talking about taxes. In your research paper in figure 1, of the top three major concerns that your members have mentioned, two of them deal with taxes: number 1, sales tax, and number 3, property taxes. I concur that retail sales tax, like property taxes, are quite regressive.

However, this morning I asked the question of two individuals as to their feeling on what could we replace the sales tax with. They were in favour of a consumption tax, sales tax, basically; they were in favour of that. But we know in Ontario, probably in Canada, the value of the goods we produce is going down while the value of the services we're providing is going up. My beloved friend across can transact \$900 million from his pension fund into another pension fund, yet there are no taxes on that service provided.

As you mentioned, what are the true causes of the disease? I think we have to rationalize the whole basis of taxes. How do we solve this dilemma? The government needs revenue, but how do we raise those revenues? What's your opinion?

Ms Swift: Boy, that's a biggie. Obviously, one of the main determinants in Canada—we're all following the flat tax debate in the US pretty closely, because whatever they do, we've got to do to a certain extent whether we like it or not, or we'll have such a leakage out of our country—or we could have an incredible advantage, if we did the smart thing.

Certainly on the business and personal income tax side, already companies in Canada are finding they have a tough time keeping their best people, because personal income taxes in Canada are so much higher than they are in the US that they're losing a lot of very top people. Bill Gates, as you probably know, has a whole pile of Canadians cooking down in Microsoft there, and there is a lot of other companies as well.

Those international considerations are very important. Consumption taxes—economists theoretically like them because they discourage consumption and it's better to save, so there are those theoretical solutions. But in an

ideal system, I don't know that we have anything novel to bring to bear in terms of what kind of overall tax system one would like, what combination of income taxes, consumption taxes and so on, but the aspect of things we are most experienced with is the compliance side.

It is clear that in sales tax right now in Canada we have a compliance nightmare, because we have two different sales tax systems. The services side—you're right. Right now it is the growing part of the economy and has been for 20 years—this isn't a recent phenomenon—and is mostly not taxed in Ontario. Some other provinces have levied their PST on selected parts of the service sector and of course Quebec has more or less harmonized its PST.

That's where we focus. We see the most inefficiencies, because the number one rule is that we've got to have some kind of consistency with our major competitors south of the border and also with our other provinces, so there won't be any serious dislocations based on different tax advantages in different jurisdictions. Barring the generic rules, if we can really focus on minimizing that compliance cost—because it's terribly inefficient in the economy when you have an inordinate amount of resources going towards compliance with the regulations because governments can't agree, which is the real reason we have this mess in this country. I think we'll end up with a much more efficient system, and then one can debate, do we want more income tax or do we want more sales tax, or vice versa.

I don't know if I answered your question.

Ms Andrew: Certainly not more payroll taxes. Payroll taxes are the worst culprits in terms of their discouragement to job creation and so forth. Unfortunately, in recent years governments have tended to rely more on payroll taxes because they're seen as more reliable sources of revenue, but you do pay the price for that in terms of job loss and discouragement of the job creators in the province.

Mr Joseph Spina (Brampton North): There are two issues I wanted to ask you about. One is that of a consumer disincentive, and the other is the compliance issue we've talked about, but from a slightly different point of view.

The consumer disincentive issue is what I'll address first. You alluded to it somewhat when you talked about the Nova Scotia situation: shifting the tax collection to the wholesale level versus the retail level. Is it really the visibility of the tax rather than the actual amount that becomes the disincentive to the consumer?

Ms Swift: It's both. Visibility is certainly an issue from the consumer side. We polled our members back in pre-GST days on the visibility issue, so that's quite a while ago now and I would want to resurvey our members before I had confidence. But interestingly enough, we actually found the majority of our members—and it wasn't an enormous majority; it was about 59%—preferred a visible tax. Their rationale was to keep government honest, because of the perception that a tax that is not visible is easier for governments to increase and you don't know quite what's happened there but you've got more money out of your pocket.

Mr Spina: Not as much consumer accountability.

Ms Swift: Precisely. On the other hand, though, there's no doubt that the visibility is a major bone of contention to consumers. They really feel like they're just getting whacked every time they buy something. So it's important. The level of the tax is obviously very important too. I think the level has to be more important because that's the really tangible thing, but no doubt, the perception of keeping getting whacked with a tax several times a day is also problematic.

But from our standpoint, what we've been telling the federal government on this issue is the same thing as we are saying today, which is basically that there are certain principles, and we think there's a whole pile of different ways we could arrive at solutions which would be true to those principles: no tax grab; a significantly better structure—more efficient, lower compliance costs and so on. Visibility would be one possible factor of that, and then we would want to go back to our members and get an updated read, now that they've lived with the GST-PST mess for the years they have.

Mr Spina: I would make one suggestion when you resurvey: You may want to distinguish between tourist business and domestic business.

Ms Swift: We do that anyway. All of our data are disaggregated by three-digit SIC, so there's no problem with that.

Mr Spina: Great, because obviously the visibility is more of a deterrent to a tourist than it may be to a—

Ms Swift: Absolutely, and there was a lot of debate around the GST introduction about whether there should be rebates and so on, as I'm sure you know.

Mr Spina: The second element is the compliance issue. It's not so much the twice the work to remit two cheques to the feds and the province and so forth; it's the actual time frame, and I think this is more provincial in scope. For example, the retail sales tax I believe is remitted based on the invoiced amounts on a monthly basis as opposed to the actual cash received. If I'm in a cash business, obviously I get and I send. But on businesses that charge retail sales tax and charge an invoice, even if it's only 15 to 30 days, I as a small business person have to remit that amount and then hopefully I'll collect it, and I then have to go through a whole pile of paperwork to get reimbursed if I write that invoice off as a bad debt.

Ms Swift: Yes, it's a big problem. Any sales tax system tends to have that feature, when you look around the world. The cash flow implications are enormous with these taxes, especially in tough times when businesses are getting paid slower and slower and slower by their customers. This doesn't change, of course, the schedule when they get their input tax credits, or at the outset, like you say, on a PST where there are no input tax credits but you're paying the tax right up front, when you might not get the full price of whatever it is you sold till—who knows?—three months later.

The cash flow implications of these taxes are always quite deadly, and for a small business whose cash flow is more dicey—they don't have the breadth of business that an enormous corporation or a government or whatever will have to get into a loop and always have a flow going there. The small business impacts of the cash flow problems with sales taxes are always more acute, yes.

Mr Spina: I'd also be interested in seeing your numbers on liquor taxes particularly, with licensed retailers, restaurants, bars, because of the tax on the tax, where you have the gallonage tax paid by the bar owner and then the retail sales tax paid again on top of that gallonage tax.

Ms Swift: Actually, we have a lot of members in that industry sector, and the liquor taxes have long been a source of disgruntlement, partly just for their level and partly for the reasons you say, because they're layered on top of each other.

Mr Spina: There's another committee before which you may want to bring those issues more pointedly.

Ms Swift: Yes, I suspect we will be.

The Chair: I promised to have you out of here by 4:20; it's 4:21. Thank you very much for appearing before the committee today and sharing some of your experiences with us.

Committee members, we are going to be meeting again tomorrow at 10 o'clock in the morning to deal with the issue of the Ontario Board of Parole. I understand we've been provided some background reports which we'll be discussing at the outset. You may want to take a look at those before tomorrow morning.

If there's no further business, we stand adjourned till 10 o'clock tomorrow morning.

The committee adjourned at 1621.

CONTENTS

Tuesday 30 January 1996

1995 annual report, Provincial Auditor: Retail sales tax	P-49
Retail Council of Canada	P-49
Peter Woolford, senior vice-president	
Leonard Eisen, treasurer	
Canadian Federation of Independent Business	P-64
Catherine Swift, president	
Judith Andrew, director, provincial policy	

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A20N
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-P72

Publications

P-6



P-6

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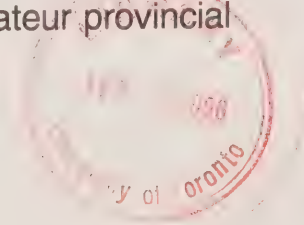
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Wednesday 31 January 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Mercredi 31 janvier 1996

*The committee met at 1100 in room 151.*1995 ANNUAL REPORT,
PROVINCIAL AUDITOR
ONTARIO BOARD OF PAROLE

The Chair (Mr Dalton McGuinty): Good morning, ladies and gentlemen. Today we are dealing with the Provincial Auditor, more specifically the Ontario Board of Parole. This morning we have representation from the Ministry of the Solicitor General and Correctional Services. Welcome to the committee. Before you begin, kindly introduce yourselves. We'll be sitting till about noon and we'd ask that you allow an opportunity for committee members to raise questions with you.

MINISTRY OF THE SOLICITOR GENERAL
AND CORRECTIONAL SERVICES

Dr Elaine Todres: Thank you, Mr Chair. We're delighted to be here. I'm the Deputy Minister of the Solicitor General and Correctional Services and it is a pleasure for me to be here with you today. I brought with me Neil McKerrell, the assistant deputy minister of the Correctional Services division—some of you know him, of course, over the years—and Ken Sandhu, the chair of the Ontario parole board.

I thought I would break from deputy minister tradition and speak very briefly and just give you a sense of where the ministry is coming from, very, very briefly, and then simply permit you as much time as you need to ask us detailed questions.

The ministry is working very, very closely with the Ministry of the Attorney General, perhaps more so than ever in the past, towards a vision of a modern, smaller and more effective justice system for Ontario, and I want to stress the word "system," because as many of you in the room know, there is in fact a seamless web between the work of what goes on on the correction and policing side through the Ministry of the Attorney General and we're trying very hard at the administrative and bureaucratic level as well as the ministerial level to begin to conceive of the system just as that, certainly on the criminal justice side.

That means focusing our resources on serious crime and making every effort to maintain public safety as the highest priority in all the decisions we make. We're attempting to apply creative alternatives to dealing with less serious offenders. We're working very hard to meet and respect the needs of victims of crime. We're ensuring and continuing to endeavour to ensure that the services we deliver are fair and equitable, and we're trying very

hard to strengthen the partnerships that have existed in the past with the community and with what I would call a broad definition of stakeholders across the justice system, meaning more than just our police and traditional stakeholders but all those who help make us feel the community is safe.

It means streamlining the management and the administration of the justice system, including, wherever possible, the appropriate use of technology, and that, many of you will know, means not only investment in technology in the ministry but some substantial amendments in the Criminal Code and in other places to ensure that technology can be used in the transfer of information between one subsection of the system and others.

For the Correctional Services side, a subject the Provincial Auditor and this committee over the years has spent a good amount of time on, and I think committee members have a very good understanding of our plant, the capital plant side, there's no question that we're going to require significant changes to the institutional infrastructure, which in large measure is outdated and highly inefficient. Put another way, of the resources put to us, whether it's capital, labour or land, there's not much more we can do on the capital investment side with very old jails. I'm satisfied that where we're running efficient jails, we run very efficient jails.

At the heart of our efforts to refocus resources on serious offenders, that will mean that there will have to be important changes to the way in which we manage offenders and the risks that they might potentially pose. We've concluded—and I know others, my predecessors—this isn't a revelation, but we've come to understand that in order to effect the changes across the criminal system, we have to have a very solid methodological approach to the evaluation of risk, without which you're not going to be comfortable and certainly citizens aren't going to be comfortable.

Who poses a risk? What are the criminogenic factors? How do we know who poses a risk? What have we learned from the social sciences over the last number of years to try to create a document that is valid and reliable? We have a new one. It has been tested. The introduction of the advance risk assessment is, at the moment, one of Neil's top priorities. Given our arm's-length relationship with Ken, the chair of the parole board, I don't feel comfortable in putting forward what he's doing in this area. I'm sure he'll cover it in questions with you.

You know, I'm sure, that we're trying very hard to introduce technological solutions in the Correctional Services division, where possible, and at the moment are in the early stages of the application of in-home elec-

tronic monitoring for non-violent offenders. The system has just been introduced this month, and I'm sure you may have questions on that. We're finding it a practical, inexpensive alternative to institutional custody, and I want to stress this, for those who pose little or no risk to the community.

This measure has been used successfully with low-risk offenders in other jurisdictions in Canada and elsewhere and we're anticipating saving \$9 million per year with the introduction of this measure in relationship to the cost of previous forms of supervision.

All of us know of course that many of our offenders do live in the community and they don't stay with us for very long. We want them to have as smooth a re-entry in non-institutional life, in community life as possible. Locking up all of them can't be our only means of dealing with unlawful behaviour.

That, mercifully, is all I want to say on the subject in my opening remarks. I'm going to stop here and ask you for any questions that we can possibly help you with.

The Vice-Chair (Mr Mike Colle): We'll start with Ms Boyd.

Mrs Marion Boyd (London Centre): I'm delighted to hear you're continuing the work to integrate the justice system. We certainly need to do that. There is a continuum to this, and that's good. I'm glad to hear you're going ahead with some technological changes which will certainly enhance the information exchange that the auditor has pointed out as a problem in terms of parole.

I certainly don't disagree at all that we need to deal with the less serious offences by not jailing those people. I think that's absolutely appropriate. We jail far more people than are jailed in any other province and we need to be looking at that. We need to be looking at effective ways of doing that, and that does involve both the way in which the prosecution proceeds and also the way in which your system proceeds.

My big concern is the serious ones. I mean serious in so far as they are in the provincial system at all. I have expressed to the auditor my deep concern that there does not appear to be an acknowledgement in his report that every one of these people is going to have to be reintegrated into the community and the reintegration of those with less serious offences is much easier than those with more serious offences, yet we're looking at cracking down on the release of the serious offenders when the whole purpose of parole is to reintegrate those people who have, for one reason or another, adopted usually some form of violence. I guess I really have a sense that we're going at this backwards.

1110

The auditor makes it very clear that we need to be using community programs and that things like community resource centres are a way of reintegrating, yet the ministry has made a decision to close all those programs without finding ways to make sure that there are better outcomes as a result of those programs. I'd like you to comment on that.

Mr Neil McKerrell: The reintegration of offenders into the community after incarceration is extremely important and there's a range of ways in which that can be done.

The community resource centres were brought into operation about 20 years ago and they have followed a life of their own over those 20 years. In more recent times, as we looked at the people who were in them and we looked at the utilization rates of the residences, we reached the conclusion that they were, in essence, becoming a form of subsidized housing and that the necessary supports to integrate people into the community effectively, to have the linkages for people in the community, could be done probably in less expensive ways.

The electronic monitoring program which has been introduced and is being developed slowly will enable us to put individuals into their homes and still be connected to the support mechanisms that are necessary in the community.

We haven't totally eliminated residential programs. We have retained a system of residential contracts which are on an ad hoc basis as opposed to a block-funded basis, and the intention is to use the ad hoc services to meet very specialized needs which can't be met in any other way. Spending \$1 when \$1 needs to be spent appears to us to be more effective than block funding and paying for beds which sometimes sit empty.

Mrs Boyd: I wonder if you would table with the committee an account of what those kinds of ad hoc arrangements would be and with what organizations. Many of the organizations have disappeared, so you have very little choice there.

But I would go back. We've just had an assurance that these electronic monitoring devices will only be used with non-violent offenders, non-serious offenders. You have not answered the question about what the reintegration is of the serious offender. That serious offender is going, I think, under the emphasis of this government, to be denied parole; that seems to be the whole thrust of this. Keep these people in jail until the end of their sentence, then they walk out the door and there is no possibility of monitoring them or hooking them up with services.

I know you have a placement coordinator in many of your facilities, but we also know that once that person walks through the door, you have no control over whether they access those services or not.

Mr McKerrell: Well, there are two parts there, one relating to parole, and perhaps the chair of the board could comment on that. The fact is that the average offender in Ontario serves a total sentence of about 18 months, so we're not dealing with the most—

Mrs Boyd: Sixty-four days, I believe.

Mr McKerrell: Oh, for the average sentence, yes, I'm sorry. The time a person would serve in custody less remission would be a total of 18 months, but the average sentences are much, much shorter than that.

The fact is that the most serious offenders that the public thinks of don't serve their sentences in the Ontario system. The most serious offences go to the federal system. So we're talking about a less serious type of offender who is serving sentence in the Ontario system. For those individuals we have the range of services available, we believe, that best meet the needs.

With respect to the parole piece of it, perhaps the chair of the board can comment on that.

Mr Ken Sandhu: As you know, the parole board deals mostly with people who are sentenced to a sentence of over six months, and if sentence length was considered to be an indicator of seriousness of offence, then yes, we are the ones who often end up looking at the more serious offenders in the system.

While I agree with you completely on the fact that it's better to release people under supervision than to simply let them out, our difficulty is that it's not always possible because, even within our system, there are some high-risk cases whose needs are not and cannot be always fully met out in the community, as we have seen. So what ends up happening is that we are into a parole rate which, if you average out over the past 10 years or so, is about 50% of the people we see.

What is encouraging is that we have, in conjunction with the Correctional Services division, developed a risk assessment instrument which has been implemented as of January 1 or 2. This instrument will put us all on the same page of the same hymn book, so to speak, in that we will all be looking at the same information, information concerning classification decisions, information concerning placement in various programs and then at the time of the parole hearing. Part of our difficulty was that we did not have that consistent instrument. We were doing our own thing; Correctional Services was doing its thing.

I think that the whole issue of higher risk and lower risk is now going to become a little more clear to all of us, because, let's face it, our criteria up to this point have been classification based on sentence length and then based on the charges on which a person was convicted. Those are not always the fairest and the truest indicators.

So that's where we're headed. I don't think that there is any desire to state or to have a policy in place that states that lower-risk offenders shouldn't be considered for release sooner. It's just the higher-risk ones, there are also associated needs, as you know, and if those needs cannot be met adequately in the community, then it's not our intention to put society at risk.

The Vice-Chair: Okay?

Mrs Boyd: Well, no, because it doesn't answer the question. So you recommend against parole for somebody whose needs you don't believe can be met in the community. That person serves out their sentence. You've already deemed them to be high risk. They aren't getting, we know, the help that they need in our correctional system because—there are all sorts of reasons, partly the length of time that you actually have control of them. They still get out. My whole point is that they get out with no supervision, with no connections. It just seems to me that if we're really concerned about public safety here, what we're doing is creating a situation, which we need to do to assess that risk, but we have to understand that even when that risk is assessed as very high, those people get out. What's the next step?

Mr McKerrell: Perhaps I can add on to that a little bit. While we have the individuals, as was indicated, with our risk assessment instrument—we've had one for a number of years; we have a revised version of it that we put into effect in January—with that, it's used to more finely identify the needs of the individual. Then we do

have, within our institutions, a range of professional services available, whether it's psychological counselling, psychiatric counselling, cross-addictions, social work. All of these things are available within the institutions for the period of time that the individual is with us. Now, obviously you can't force anyone to partake in treatment, but for those who are willing and motivated and interested, there's the range of treatment programs available.

What we also have is discharge planning, where we try to do what we can. As you have noted, we don't have the people for very long. A lot of the people have very deep-seated problems, they've had them for years and years and years, and for the short time that we have them, it's not a matter of adding water and stirring and you've got a fix. But at least we try to introduce them to the professional elements that we have available and try to make the connections.

Then, with the discharge planning, when the individual is released, whether it's on parole or whether it's on a temporary absence or at the expiry of the warrant, the objective is to put the person into contact with resources in the community. Obviously, we don't have the ability to force that to happen either, but at least if the connection is made the hope is that the individual will follow through in the connections made in the community.

Mrs Boyd: Faint hope.

1120

Mr Toni Skarica (Wentworth North): I prosecuted in our courts for about 12 years. I have some familiarity with what happens on sentence. When you send somebody to a federal term, two years or more, the National Parole Board within about three weeks sends you a letter wanting details—pre-sentence reports, police occurrence reports, agreed statement of facts and that type of thing.

We don't get a similar document from the reformatory system, so first of all, to assess risk—in the investment business, they have a saying that risk varies proportionately with knowledge. In order to assess high risk or low risk, it seems to me you just can't look at the offence. I've known violent offenders who—it's their first time and they're never coming back, but I also know property offenders, break and enters, who you know virtually for certain are coming back. So my question is, what information is available to the parole board at the present time and what changes are being contemplated, if any, to give the parole board more knowledge? As I indicated, I think knowledge here is power and it would help tremendously in determination of risk.

Mr McKerrell: Again, this is probably part for the Correctional Services division and part for the board. The board is the decision-making body and the Correctional Services division has the responsibility for gathering the information and providing the information to the board on which they can make the decision. Then Correctional Services is responsible for supervising the individual once they're released on parole.

To answer your question on what's available to the board, it's the same information that's available to the Correctional Services people when we're dealing with the individual before they're eligible for parole; namely, when the classification process is undertaken, when an individual comes into the institution, we try to get the

occurrence report from the police, we try to get the reasons for sentence, if we can, from the court. If there was a pre-sentence report ordered by the court, we have access to that because of course it was probation officers who did it. If there are any psychiatric/psychological assessments ordered by the court, we try to get access to those as well. So in other words, we try to get as much of the information that was available to the court when the sentence was being handed down. We try to get that information and bring it into our process as well.

Then, when the individual is in the system, be it on probation or in an institution, but particularly an institution, many of them were there before, so there's a bit of a case file, if you like, that's available to the staff in the institutions. That can be added to fingerprint reports from the RCMP, any other information that's on the police information system, CPIC, and together with the intake interview that's done by our institutional staff, we can put together a bit of a composite, if you will, about the individual and what we need to do to contain them from a security point of view and also what we need to direct them to from a program point of view. So all of that information is available to the board plus the report, if you like, on the performance of the individual while they were in custody prior to becoming eligible for parole.

Mr Sandhu: In addition to the information that Correctional Services has, we occasionally do get information from victims. We have a policy that states that the victims are able to access information from us and provide information to us. We might get information from other people in the community who might wish to write to the board and state how they feel about the case and the offender.

I think it might be helpful for the committee to know, and certainly the auditor, this was one of the recommendations. In fact, the first recommendation was that we needed to improve this area. Again, historically, we were lacking in some parts of this information-gathering process, and mainly what it was that we were not getting the details of the offence. As Neil McKerrell mentioned, we're getting mostly CPIC information, but we wanted to know the nature of the offence. So we're now getting in all of our serious offender cases, which are classified as level 1 in our system, the details of the offence and we are also starting to get the judges' reasons for sentencing. So much the same as the federal system asks for that, we are now starting to get that information.

Mr Skarica: What's occurring now—and I don't know if you're aware of this—is that with the Martin recommendations, more and more criminal cases are being resolved by the defence lawyer coming in, having an agreement with the crown and then a pre-trial by the judge, then you go into court, and the offender is sentenced. So you don't get the pre-sentence report any longer, you don't get the psychiatric report, you don't get as much detail before the court because, basically, it's an expedited process. But that hurts your information-gathering later on because the court doesn't have the amount of detail before it that it did before. Is there any way you're going to address that problem?

Mr Sandhu: Yes. In fact, as the deputy mentioned, we are working closely with the Attorney General on all of

those kinds of issues. The facts of the case are something that often in those instances where there's a joint submission are available to the court, and we've said that in those instances we would like the facts sent to us.

Our feeling is that—and also the judges are very supportive of all of this—all of that crucial information will start flowing in the future. There was a tendency in the past on the part of various actors in the system that perhaps the corrections and parole didn't need some of this, but it's been proven now that we do need it. So I'm quite confident that that will all happen.

Mr Skarica: Finally, as I indicated, the National Parole Board, they send you a letter but they have lots of time because they have two years plus where you don't; you may only have six months, three months, nine months. Is it going to be an automatic type of process where immediately when the person is sentenced that material gets forwarded or are you going to have send a letter, because the latter wouldn't work in many cases?

Mr McKerrell: What we're hoping for is that it will basically be an integrated online information system. Really what we'd like to move towards is one information system from point of entry to point of exit, so that at each step a person goes through the justice system the information is put into the same repository; or if not the same repository, if that's too technically complex, at least have the various repositories able to communicate with each other electronically. Each party to the system, whether it's police, courts, corrections or the releasing authority, would have access to the pool or the reservoir of information and would be able to go into it to the depth that they have reason to. Obviously, with some police intelligence issues, there would be limits to how far people could go into the information bank. But absent that, anybody who has a need to know about the individual, the offender, would have access to the common repository of information.

Dr Todres: Just as an add-on to that, this is what we refer to as the Integrated Justice Project, and it requires several things.

First of all, it requires a deep and abiding belief that there is one system and not two ministries and 10 divisions and different players. That's been accomplished. It requires a lot of technical work. It requires buy-in from, as you know, all of the players, judges included, but it also requires, in my mind, a philosophical shift in the mind of the person who is the worker.

I think the technological revolution was slow to come to the justice field, if I'm permitted to say. I can only say this, of course, because I'm not a lawyer. Every person who is involved in the criminal justice system is not just a lawyer, a crown, a parole officer; there are also knowledge workers, including police officers, and their job begins and ends with the transfer of information. It's not a clerk or somebody else who has to do this. It's internalizing the notion that when you're the police officer—this is assuming we have the data and the information and the laptops for them—that job incorporates the necessity to transmit information, because otherwise the person in the next chain doesn't get it and you know how many times we repeat getting the same information about the same individual and how shocking it is to find out just how many pieces of paper have been touched and so on.

1130

That's really what we're struggling with, quite apart from the investment dollars and so on and the technical standards, making sure that people understand in our imprisonment system, in our parole system, in our policing system, that everybody has to update. It's their responsibility, once we have the technical standards and so on. I think some of the preconditions for that kind of technological revolution are in place, a lot of work was done over the last three or four years to get that kind of thinking across, and that's the challenge we have over the next little while. I would imagine that's what the young practitioners would have assumed will be the case, given their own background and their own training.

Mr Mario Sergio (Yorkview): I'm sorry I missed your presentation. I have a couple of questions. What refined instrument would have been introduced in the fall of 1995?

Mr McKerrell: That's a risk assessment instrument, which we call the level of service inventory Ontario revision. It's a tool, if you will, which assists individuals working in the justice system to identify the risk of reoffending on the part of the individual and also the needs of the individual to which the system should try to direct them to correct the aberrant behaviour, whatever it happens to be. It's an instrument which was developed for us by a team of academics and there was a great deal of input from our own staff who use it, staff of the parole board and a range of individuals in various communities, so that we could try to clearly identify the risk factors and the need factors.

This does not function by itself. It requires the judgement of the staff person to be exercised as well, but it's a very useful, objective tool that focuses in on some very clear and specific indicators with respect to risk and needs. Some of these factors are—and I'll just quickly cite them here for you—the criminal history, the education and employment, family marital status, the leisure/recreation patterns that the individual has, the companions, what's called pro-criminal attitude or orientation, substance abuse, antisocial patterns. These are factors which, when explored, help to zero in on the level of risk and the kinds of needs the individual has to which the system can address some attention.

Mr Sergio: Do you have a mechanism to assess, to evaluate the performance of that particular function?

Mr McKerrell: I'm sorry, I'm not following you.

Mr Sergio: What do you have at your disposal—though this is fresh, it has been implemented in the fall of last year—what mechanism do you have in place to measure the success of that?

Mr McKerrell: Of the instrument itself?

Mr Sergio: Yes.

Mr McKerrell: It's been used extensively in jurisdictions for a number of years and it's found pretty strong favour. There's also research material which indicates, which corresponds to the reliability of the instrument itself. Our research staff have been participating in the development and the refinement of this. They were involved from the outset, they've evaluated it over the last 10 or 15 years and they were involved in the refinement of the most recent version of the instrument.

Mr Sergio: So this would be then, in the long term, something that—

Dr Todres: Yes.

Mr McKerrell: It'll be constantly monitored. That's the purpose.

Mr Sergio: Constantly?

Mr McKerrell: Yes. The idea is that it took us 10, 15 years to come up with the revised version which reflected changes in demographics, among other things, and the intention is that it will be done on a more regular basis, that we won't wait 10 or 15 years before updating the instrument.

Mr Sergio: Is it a particular time that you will be reporting?

Dr Todres: I understand the direction that you're going with the question. First of all I think, just from a research point of view, we'll probably have to have had it operational for at least two years to test its validity and reliability, quite apart from its effectiveness. But that is part of the mission. I just wanted to assure you, although you haven't asked a question on this, we are taking this extremely seriously. I've met with the social scientists who have worked on it. We're working on a video right now where I am communicating my—it's beyond commitment. To me, this is one of the centres of what we're doing in corrections. If we do not have confidence in the risk tool, we're not going to be able to achieve our policy objectives and so on over the short term. Everyone has been trained, you'll find out from the chair of the parole board. The parole board folk have been trained as well. We will be having continuous training throughout the piece because it's that crucial to our success. We'll be very happy to come back to you in due course and let you know about the validity of the instrument and, more importantly, its effectiveness.

Mr Sergio: Due course—in a couple of years?

Dr Todres: My experience as a social scientist is that it will take us probably three or four months. As you know, it's a large ministry with a large number of staff. We've got to make sure the training has been done. We will have to probably—I won't say modify it, but always in experience you find that there are certain words in the document that don't make sense or the parole officer doesn't understand, or the probation officer doesn't understand, so there may have to be minor modifications. You have to know in research what are you testing: the new one, the revised one, the revised of the revised. I think, optimistically and realistically, we should be able in two years to have a very good sense of whether it worked. We're a leader in this field, Ontario, and other jurisdictions look to see what we're going to do with this.

Mr Dominic Agostino (Hamilton East): I just want to talk a little bit about the process and I guess the whole function of the parole board and maybe the function of the parole board in isolation of the community often. I first of all think time will tell whether these changes, initial steps, are going to be beneficial because, frankly, up to this point I've had very little confidence in the work of the parole board. I've had very little confidence in risk factors, frankly, coming from a community that has often been a dumping ground for people released on parole because of the fact that we have a number of

services: the situation with Mr Suzack a couple of years ago, with the Salvation Army in Hamilton, with Legere, the convicted paedophile who has been out again. Even the judge, who cannot detain him further, has said this guy is going to go out and commit crimes again, but he's out walking the streets of Hamilton. So I don't have a hell of a lot of confidence in the way the system has worked up to now and part of that I think stems from the closeness of the process.

The chair of the board mentioned that often victims are given the opportunity to give statements; often the community is involved. But the way the system's worked, frankly, often victims don't even know that the individual is coming up for parole, that the individual is going to have the possibility of walking the streets again. The community doesn't know, so it goes to the issue, twofold, of the process.

The fact that it has been a closed process up to now, I think the first step in that would be to totally open up the system. If somebody goes to trial, it is a public trial in most cases. It is accessible to the media and to the public. When the opportunity occurs for that individual to be released earlier than the sentence, it has been outlined, it all of a sudden becomes a closed process, a process that is not accessible to the community, that is not accessible to the media, and that often is not accessible to the public. That's the first question I want to ask you.

The second is with regard to the ability of police departments to issue pictures, names, information, on someone they believe to be a high-risk offender who is going to be released without fear of liability. They have done it. Often police forces have taken the responsibility and the liability and the chance of being sued for doing that. One of the requests they have made constantly, from the associations I spoke to and police departments, is that they feel they should have a clear direction from the ministry that they can do that based on their judgement, and protected from basically a liability aspect. Right now, often many police departments do it at their own risk.

1140

I'd like you to comment on those two aspects: the openness of parole hearings, where they should be; and in my view, that police departments should have the right, on their judgement, without fear of repercussion or suit, to release pictures, names or anything else of someone who they feel is a dangerous offender.

Mr Sandhu: If I could respond to the first one, the response is that I share your views. My problem has been that we have been restricted somewhat in the past by the Freedom of Information and Protection of Privacy Act, legislation which states that we cannot allow media or third parties to be present during our hearings, so much so that we couldn't release the reasons for our decisions. As a member of the board for several years, having made decisions, I have no desire to hide what I'm doing, and I speak for other members of the board. It has to do with the laws that have prohibited us from doing it in the past.

We have recently started to work on—again, it's cross-jurisdictional with the Attorney General and the Solicitor General side of corrections and what have you, and the parole board—an initiative which will allow more victims to have access to our decisions, to our process. As a

result of the Victims' Bill of Rights, I expect that we will be able to do certain things, although there are still some restrictions from the FOI side, and we're working on trying to bring ourselves—

Mr Agostino: But you would favour open hearings for parole cases?

Mr Sandhu: In principle, I'm all for open hearings. How far we get with that, I don't know at this time, because it's still at the developmental stage.

Dr Todres: To answer the first part of your question—I won't speak to the issue of open hearings, but on the notion of people knowing what's happening. I've been attending a number of meetings with people who call themselves on the leading edge of technology, applications for policing and corrections, and I'm trying to explore whether there's actually a technological response. Are there ways that we can set up telephone systems and databases so that when we know the release date or whatever, we can somehow assure members of the family and so on? Because it's hard to imagine doing it manually—mistakes happen, pieces of paper don't come in time and so on. So I've actually asked the policing services division under Fred Peters, and Neil and Ken, to see whether or not there's an efficient, hopefully a relatively inexpensive method of addressing your point of information access. I can't go as far as saying what the board will do in terms of FOI and the other matters of an actual open hearing, but your point simply is, people need to know. They need to know what's going on.

On your second point about release of pictures and the police, we're very aware of that. I've asked the ADM of policing services—we're in active conversations at the moment with people in the police world, mindful of some of the parameters within which we have to work with FOI, so it's very much on my mind. I don't have an immediate answer that I can give you, but we're working actively on that problem.

Mrs Boyd: I think it's fair to say that most of the folks Mr Agostino would be worried about are probably coming out of the federal system. At least one would hope that would be the case, because the decision of the crown in terms of how they proceed with some of these things really depends on the nature of the particular circumstances. That's a really important factor of this working together issue. That decision of the crown whether to go summary or indictment, and then of course everything that follows, is a very crucial decision, as is the police report, which may outline some of the impacts of the crime or may not. Those police reports vary enormously, and I know that one of the issues around the information exchange is trying to get some kind of uniformity to the way in which those police reports come forward and the kind of information they offer the crown in order to make some of those decisions, because there is just a huge variation in that.

In the same way, I'm curious about your risk assessment form. We certainly saw lots of circumstances where the police report would come forward and the actual circumstances of an assault, for example, were not necessarily very clear. It really matters whether somebody is beaten up as a result of a drunken brawl in a bar or whether someone is beaten up in their own home, the age

differential, the power differential, the strength differential. All of that matters, and many police reports haven't detailed that.

So when you talk about the criminal history on your risk assessment form, is it going to be available to the parole board who the victim was, exactly what the relationship was, exactly what the circumstances were, and whether the victim reports that this has happened before but the police have not been called? Because I think all of those are factors which crowns have found are important to them in determining where they're going with cases, and I would think it would be equally important for the parole board, particularly if they're going to release somebody who is going to go back, for example, to a domestic situation where those people are vulnerable again. So I'm curious as to how the form goes, and then a little comment perhaps from Ken around how he sees that working.

Mr McKerrell: Our objective is to move as far forward as we can in the sense of getting as much information as is available. Going back to what I said a little while ago, if we can get a common information system from point of entry to point of exit, that's the first thing. But then, as you've touched on, you have to get people using it the right way and have some commonality of reporting and the kinds of information you require and so forth. So it's all linked there. But the objective is to get all that kind of information that you referred to, because our feeling is that the more information we have, the more reliable our risk assessment instrument can become. And then with that coupled to the professional judgement of the staff, at whatever point of the justice system they're involved, they can then make good judgement calls is what it comes down to.

Mr Sandhu: Yes, and let me say we're starting to see some of that information that you are alluding to, because I think police officers are now realizing that the reports are going beyond just the court level, especially in those instances where there may be joint submissions and nobody ever looks at the information. They now know that they are coming to us.

Let me also share something else with you that I've been involved with which I personally find to be quite exciting. The OPP has a behaviour sciences unit, and they're looking at something called threat assessment. That instrument or that process looks at more of the victim's point of view. With those types of offences that you talked about, I think that information is invaluable to us. It goes beyond what LSI will do, because LSI is offender-based and the threat assessment is a victim-based instrument. So we're quite excited about it. That process is not as comprehensive as ours is in terms of a two-page form. Theirs is a little more scattered in the sense that it consists of reports and assessment and what have you. But they're very happy to work with us on it. They've asked us to attend their training sessions, which we will be attending, and the correctional side is also involved in it.

So for those types of offences where there are victims, a lot of family violence, a lot of criminal harassment cases, I think our information base will improve.

Mrs Boyd: That's good, because I think right now we see there's a huge variation in the charge rates of police officers in many of these cases. We see a variation anywhere from about a 35% charge rate to an 80% charge rate, and that's a huge differential just based on police jurisdiction. For example, it's just a truism that "Cause Disturbance" in some police jurisdictions is actually domestic assault. It just gets lowered so that they don't have the paperwork and because there's a lack of commitment, frankly, to the application of the policies, and I guess the need for some understanding about the variation on that, particularly in some of the rather outstanding cases where you're getting through a criminal history that may be quite different from a criminal history done by another jurisdiction that would reflect the same kind of thing. So I'm glad to hear you're moving in that direction.

The threat assessment thing, as I have reason to know, is an interesting kind of instrument because it is flexible, isn't it? It gives you a different set of information than you need.

Mr Sandhu: That's right.

1150

Mr Steve Gilchrist (Scarborough East): A comment first, and it might be one of the few times, but I couldn't agree more with Mr Agostino's comments about certain perhaps high-profile cases that we continue to be beset with in terms of people who have been released and have gone on to repeat the offences for which they were first incarcerated.

As a victim of two armed burglars, one time about a year and a half ago, who had gone through our system, not the federal one, in one case eight times, I have to submit that from my perspective there certainly is a dramatic need for risk assessment to be improved in the Ontario parole system.

There appears to be consensus that a number of decisions, perhaps a majority of the decisions, that were made were based on faulty or inadequate information. In light of certain initiatives the government has already undertaken October 23, and over and above the electronic monitoring—it's unfortunate Ms Boyd has stepped out, because I think on her focus that there is still a need for community-based programming and there is merit in letting out criminals who clearly are considered too dangerous for electronic monitoring but still are somehow going to benefit from some sort of community involvement in a halfway house context, the auditor was very clear in his report, in his observation that: "During our audit, we noted the ministry had not evaluated the effectiveness of these programs. Hence, it did not know if offenders were receiving the intended benefits and if society was being adequately protected."

Over and above Ms Boyd's request for the information as to which community programs you're still involved with, I'd like to know what has changed since the auditor's report in terms of the mechanisms to assess the performance and the effectiveness of community programs for those individuals who are considered too dangerous for electronic monitoring.

Mr McKerrell: What we have done is to refine a program evaluation process within the Correctional Services

division which can be applied to all the programs which we're operating. We needed something which could be used onsite, something that was simple and straightforward, as opposed to an instrument which required a great deal of, let's say, research orientation. We wanted something that was practical and straightforward and would evaluate whether a program was meeting its objectives, number one, and was cost-effective.

One of the larger issues that the Provincial Auditor has identified, both in terms of community corrections and in another sense in the institutional corrections, is the larger question, does the justice system work? Does community corrections work? Does the jail system work? You have to sort of look at what kind of an answer you expect.

It works in the sense that you have a period of time within which you supervise the individual, so you can try to accomplish certain objectives while you have that individual under your care and supervision. When the warrant expires, all you can do at that point is watch to see whether what you did during the period of the warrant was effective in the sense of the person coming back later on. But once the individual is released from supervision, they're perfectly free to live life according to their own standards. If they run afoul of the law again, then they'll be caught and back into the cycle.

So in terms of, "Does it work? Is it effective?" for the period of time that we have the individuals, we're reasonably sure that we're able to make some impact. In terms of the longer-term impact, the factors that impinge on that are beyond the control of Correctional Services.

One of the things the auditor has highlighted to us is, how do you measure the effectiveness? That's something quite frankly that we within Correctional Services division are trying to identify, something that would be a better measure of our performance so that we can be held accountable: "You spend X number of dollars of the taxpayers' money. Show us that you're deriving some public benefit for the money you're spending." We haven't found that definitive answer yet, but we are working on it.

Mr Gilchrist: I don't mean to appear naïve, but I have a great difficulty looking at the difference between the provincial and the federal parole systems and in fact the justification for the two. Perhaps you can help me out here, because I genuinely have never understood, when the differentiation was made between serious crimes and somewhat less than serious crimes and the decision was made that you either go to a federal institution or reformatory, as it used to be known, why we even have a parole system that second-guesses the judge, who was privy, face to face with the criminal, with the victim, with all the aspects of the crime as they were related by the police officer or whoever else was bringing the charge.

I have a great difficulty understanding why we have a system that, after that judge says, "Okay, it's not serious enough for me to send you to the federal system, where I recognize that there is a mechanism that you could be allowed out after a certain amount of time if you demonstrate you have been rehabilitated. I believe that you should be sent to the reformatory"—where years ago there was not the option to reduce the sentence and you served your time, normally in some kind of work-related

environment. It could be a work farm or something of that nature. I genuinely question, based on the recent history in particular, and just the fact that we continue to have a justice system that makes that differentiation, why we as a government, why we as a society, would want to incur the expense of a parole system which does not have the firsthand access to the victim statements and to the face of the criminal as he was in the dock. I question why we would continue to do that or why we wouldn't, recognizing that the community and halfway programs have by and large failed, and recognizing that the whole point of the justice system, the whole point of the jail system, was to provide that rehabilitation—I mean, I don't need the John Howard Society or somebody in a halfway house to do it. I thought that's what we we're paying the jails to do. Why do we not have provincial criminals serve out their entire sentence and dispense with the whole idea of a parole board?

Dr Todres: Perhaps I might answer that in this way, Mr Gilchrist. Our minister has, as I'm sure you're aware, commissioned a study on this very issue. As I understand it, Judge Drinkwater is going about his business. He's begun interviewing key stakeholders and asking some of the profound kinds of questions that you have: "Why? How's it working?" He's quite thorough, as I understand it. He's interviewed a number of people and we're awaiting the results of his work, and the minister and cabinet will have to contemplate what they want to do.

On the second point you raised, although it may have been a supplementary, if I could put it this way, sort of work farms and what people are doing and so on, we are looking very seriously not only at issues of strict discipline facilities for young people, but what works: What can we do to make meaningful the time that is spent, both from society's point of view and from the inmate's point of view?

I had, just as an aside, an interesting conversation with my colleagues in Alberta, who are looking at work camps for very low-risk offenders, and perhaps not exactly the offenders that you might have mentioned. Ms Boyd will know of this of course from another lifetime, but it's fascinating to note that they've taken very low-risk offenders and placed them in essentially low-risk environments, and that the inmates themselves are very happy, or are happier than they were before. They have concrete tasks to do. They have a sense of fulfilment. Society seems to be very pleased. Now in Alberta, they're in bush camps in remote climates. The climate today doesn't seem to be as remote in Ontario.

There are other ways of looking at these things, just veering a little from your question about parole, but it has to do with efficacy: What are we doing to the extent that we're able to do and to the extent that there's a solution? Because weaving back to Ms Boyd's question, we all know there are some boo-boos we can't fix. There are some folks, whether they're in for two years less a day or they're in for life, who have such profound ailments that someone at the end of the system, who is Neil, coming to terms with someone who had an abusive childhood, it's very difficult to contemplate, without becoming theological, how one actually fixes and makes better that person's life for re-entry and to try to reduce risk.

But having said that, we are examining in detail whether there are other methods, and we'll leave it to the cabinet to determine what it is that they want to do ultimately on the side of parole.

The Chair: Thank you very much, Dr Todres, Mr McKerrell, Mr Sandhu, for being here with us this morning, and thanks as well to your supporting cast. I'm sure that committee members found your presentation and your responses to their questions very helpful.

The committee stands adjourned until 2 o'clock.

The committee recessed from 1202 to 1401.

The Chair: Good afternoon. We're continuing our inquiry into section 3.18 of the 1995 annual report of the Provincial Auditor on the Ontario Parole Board.

Mr Agostino: Mr Chairman, since we have more members of the opposition than the government, would it be in order to move a motion in regard to Bill 26?

Interjections.

Mr Agostino: Wrong committee?

POLICE ASSOCIATION OF ONTARIO

The Chair: We're going to begin this afternoon with a presentation by representatives of the Police Association of Ontario. Good afternoon, gentlemen. We have a half-hour allotted for your presentation, and it would be nice if we had the opportunity to raise some questions with you during that half-hour.

Mr David Griffin: Before we start, are you expecting some of the others to rejoin you? We don't have any problem waiting five minutes if you think people are still going to drift in.

The Chair: The problem is that we have three presentations scheduled for this afternoon, and if we delay with the first, obviously then the delay—they'll be coming in. I see others walking in as we speak.

Mr Griffin: All right, thank you. Good afternoon. I'm the administrator of the Police Association of Ontario. With me today is Rick Houston, our executive manager. Rick was a police officer in Windsor for 23 years. To my left is Terry Ryan, a director with the Police Association of Ontario. He's been a police officer with the Durham Regional Police force for 23 years and is currently assigned to the bail and parole unit.

Our organization is the umbrella association for Ontario's 23,500 front-line police officers and front-line civilian support staff, and I want to emphasize that at the present time. When we speak about our civilian support staff, we heard some comments this morning in this committee's discussions with members from corrections about police processing of information. I want to reinforce that a lot of our members who don't wear a uniform but do work for police forces are involved in the support of the front-line officers, and their role is no less important in pursuing the administration of justice.

Unfortunately, as we talk today about parole and other corners of this fine institution, the government is looking at making cuts to policing which will affect the very people who are charged with feeding that information to the court services and ultimately to bail and parole. So certainly we want to reinforce that our members are not only involved in police service delivery on the streets, but

also in processing the information that's ultimately forwarded to the courts and to the other agencies.

Our members are given the responsibility of keeping our communities safe. Funding cuts and reductions in staff make that job more and more difficult to perform every day.

I'll apologize in advance that we will not have more extensive written submissions to accompany this presentation. Our energies have been, and are going to continue to be, focused on the government cuts to law enforcement and to policing. Despite this government's election promise to guarantee funding for law enforcement, we find ourselves fighting at all levels of government to preserve spending for policing, fighting a broken promise.

For all intents and purposes, the police set the wheels of justice in motion. I guess we could be compared to an intake for the system. It's a complex, unwieldy and archaic system which ultimately exhausts itself through the probation and parole system. These people in probation and parole are the guardians of public safety when it comes to protecting the interests of our communities at the point of release.

It is a system of breaks. Police officers give breaks through warnings. Crown attorneys give breaks—and there's a typo in the brief—through plea bargains. Judges give breaks through suspended sentencing and discharges. Parole boards give breaks through incomplete, incompetent decision-making or benefits of the doubt. Probation officers give breaks in part as a result of their increased workload. Offenders that are familiar with this system manipulate these breaks to their advantage, testing the limits of a system of breaks that is fractured beyond repair. It is important that you consider this point when you consider Ontario's system of probation and parole.

This morning, we heard the ministry and the board representatives talking about less serious offences. Less serious offences, in this system, are people who have served two years less a day. We were talking about this during the break, and between the three of us, with well over 60 years of police experience, we can probably count in the low numbers the number of people we have been directly involved with who have been sentenced to more than two years less a day. So when we talk about less serious offenders, don't kid yourself. Lots of people who are in the provincial system have committed serious offences; lots of them have benefited from the very breaks we're talking about.

One example that came to my attention recently was a woman who stabbed a police officer in a bar. It was the officer's bulletproof vest that saved that officer. She was sentenced to six months in custody. So certainly two years less a day does not necessarily represent a less serious offence.

In Ontario, it's a system of progression. Most offenders progress from small-time to bigger things: absolute discharge to suspended sentence to probation, from small-time to heavier sentences. In Ontario, our correction system deals with offenders who are sentenced to a maximum of two years less a day, a deuce less, as it's known in the system. It's one day away from hard time in our federal system, and many a plea bargain for serious crimes hinges at this mark.

The point is that by the time an offender is on parole, and in many cases by the time they're even sentenced to probation, they know the system all too well; they know the breaks. They work the system and they work the breaks and, as recognized in the auditor's report, they know the limits and they test them.

Our members share many concerns with probation officers in this regard. The system isn't working, and sometimes it isn't worth all the effort of process and paperwork to lay a charge and to go to court knowing that the offender is going to walk. So it comes as no surprise to us that one third of all probationers fail to live up to their reporting criteria. Let's face it, one in three can't make it in to report once a month. As Terry Ryan has told me, the reporting system is a joke. He deals with these people every day. People don't show up or they reoffend, sometimes even before their first reporting date. What greater good is being served by placing people in a system that doesn't even promote compliance?

The Police Association of Ontario became involved in the public debate over parole following the murder of Constable Joe MacDonald of the Sudbury Regional Police Force on October 7, 1993. Clinton Suzack and Peter Pennett have since been convicted in the brutal murder of this officer. Clinton Suzack was on parole—provincial parole—at the time of the murder. Clinton Suzack was a veteran of the system. Clinton Suzack benefited from a poor plea bargain decision. Clinton Suzack requested a review of a parole board decision that denied him parole, and was successful. Clinton Suzack is not atypical of the level of competence within the parole system. He should not have been released. If the parole board had done its job, Joe MacDonald would still be alive today.

1410

The ministry launched an independent review of this case, conducted by Bonnie Wein, a director and chief counsel of the constitutional law and policy division of the Ministry of the Attorney General. Ms Wein identified failings within the system which are consistent in many instances with the recommendations contained within this auditor's report. If this committee is indeed committed to ensuring that the troubles within the parole board are to be adequately addressed, you will have read Ms Wein's report.

Let me stop here for a moment. A key issue in her report was access to information. We heard that discussed this morning as well. We heard the representatives from the corrections side of the ministry telling us they are trying to get information to assist parole boards. We heard the board representative, the board chair, acknowledging that there's shortcoming and that they're now starting to get information.

I guess the biggest question we have is, why are all of these systems working independently of each other? Why is the police information system independent of the crown's information system, independent of the corrections information system, independent of the parole board's information system? Why aren't the packages used at the time of arrest automatically sent through the system, and if an offender is convicted, why isn't that package sent through automatically to parole and/or corrections? Take out the middleman and standardize the

reporting mechanisms. Perhaps Mr Skarica, who's a member of your committee, can assist in this regard.

Following release of the report, the parole board chair, Mr Wadel, a representative from the John Howard Society, was dismissed. Other members have since resigned and new appointments have been made, with a greater balance of experience for those people being appointed. The system, however, does not support the changes being brought forward. Public confidence has yet to be restored.

In our review of activities to date, we find that changes within the parole board itself have been moving in the right direction. Certainly, the political winds of change have brought about new directions in the operations of the parole board. More can still be done.

We applaud the passage of a Victims' Bill of Rights, entitling victims to be informed of release considerations and to be offered the opportunity to make submissions before the parole board. However, it's obvious from the information you heard this morning that this has yet to come to fruition. Victims, police, the parole officer and the crown should also have an ability to initiate a review of a parole board decision where parole has been granted against their objections. Presently, only the inmate can request a review if release is denied.

Clinton Suzack was originally denied his parole and requested a review. On review, the board granted parole despite incomplete information and opposition from both the parole officer and the police. But once his release was granted, there were no further checks and balances. There was no ability for the crown, the police, the parole officer or the victims to appeal.

Steps should be taken to require increased accountability for parole board decisions. Written reasons outlining the criteria assessed should be compelled to ensure the board members perform their duties—duties—in a thorough and prudent manner. Sorry. That was somewhat Freudian, I guess.

I'd just like to pause there. In looking at the auditor's report and the response from the parole board on this very point, it seems the parole board has sidestepped this issue completely and suggested that corrections produce more information, but they have not undertaken to ensure they will document their decision-making criteria.

We're encouraged by efforts within the ministry to review the parole system and look forward to the opportunity to address our observations with respect to Ontario's parole system at that level.

One concern, however, that is worthy of note today relates to the increased use of extended temporary absence passes as a means to "enhance release options for provincial incarcerates." This is nothing but a backdoor approach to managing our corrections system and should be brought to a stop immediately.

Veterans of the system in Ontario's correctional facilities are now forgoing parole application in the hopes that they will subsequently qualify for an extended TAP. Why? Under the TAPs, there's no supervision, no conditions, and as we understand it, offenders will finish their sentence quicker. You see, while on the TAP, they are credited for time served as if incarcerated and qualify for mandatory release with no conditions after completing

two thirds of their sentence, as opposed to being paroled earlier, with conditions, for the balance of their sentence. It's a shell game, and the inmates are turning the shells.

Another concern—and this isn't in the written material but it was raised this morning—is the issue of releasing pictures of high-risk offenders when they're released. We've heard regularly that freedom of information is standing in the way of community safety. Change the law. You people have the power: Change it. If freedom of information is the only reason you can't alert citizens in our communities that they are at risk from certain offenders, the law is obviously what's standing in the way and needs to be changed.

Turning to the issue of community services or, to be more specific, supervision, we are less than confident that the objectives are being met. Many of the probation and parole officers we have talked to share our disenchantment with the justice system and its effectiveness in deterring and reforming inappropriate behaviour. They too are trying to cope with reductions in staff, budget cuts, decreased supervision and support and increasing workloads. Many are forced to deal with cases on a priority basis, which is demonstrated time and time again in the auditor's report. Let's look at some examples.

First, non-compliance. The auditor has identified that conditions are not being met time and time again, yet there is little enforcement. How does the ministry respond? Management solution: Increase the red tape and paperwork, thus reducing the operational time available to effectively supervise offenders. Fill out more reports.

Second, with respect to reporting, as noted earlier, one third of offenders in the sample missed three or more reports with little or no intervention. Again, the response entails more red tape and paperwork but little constructive change. Alternatives to prosecution have to be established to ensure compliance. Taking offenders to court is not a viable solution in all cases, yet some enforcement powers are obviously needed. Continuing the pattern of breaks is not the answer.

Third, community service orders, treatment and restitution—again a disturbing recurring theme of non-compliance, lack of intervention and managers responding with red tape and paperwork. A key concern of the parole officers we have spoken with is the struggle with their increasing workload and the resulting inability to properly manage their cases. This is a recurring theme in our justice system and promises to be exacerbated by further spending cuts.

The ministry has indicated that it is developing a workload index. We're concerned that the same people currently responsible for monitoring performance, as identified in the auditor's report, may now be charged with the responsibility of establishing and monitoring workload standards. The track record they have demonstrated for caseload reviews leaves little sense of comfort that the problems with workload will be adequately addressed.

I'm sure you people must have had a similar reaction to us when you read the auditor's report and see the five examples, the five different areas that were shown, and see that in two cases people aren't doing their job, haven't even tried. They've said, "This isn't going to

work, so I'm not even going to try." If those are the managers in the system, what can you really expect from the people who are working beneath them? It's one thing to commit to measure workload, but it is a far cry from recognizing that more resources are required to effectively perform the job that needs to be done.

1420

The solution is not to turn to outside sources such as community resources and volunteers to address these failings. Clinton Suzack was sent to a Salvation Army facility in Hamilton as part of his release plan. While there, he was able to obtain drugs and a gun, the gun he used to murder Constable Joe MacDonald. As Ms Wein noted, "The Salvation Army program was not a secure program and in some respects is known as an 'easy out' to inmates." Again, they know the system better than us; they know the breaks. Two weeks later, Suzack walked away and a warrant was subsequently issued for his arrest. Four weeks after that, Constable MacDonald was dead, failed by the very system he dedicated his life to defend.

Much has been said and done since that time. However, the system is still flawed, budgets are spread too thin and cases continue to fall through the gaping cracks. Much more still has to be done to ensure that the criminal justice system in Ontario meets the needs and expectations of the citizens it serves.

Cutting budgets of police forces and others in the criminal justice system will only serve one constituency group: the criminal element. We're sure this is not the electorate who believed the Mike Harris government's pledge to guarantee funding for law enforcement. Now it seems we are being betrayed.

Before we wrap up, two or three points. First, we heard the former Attorney General speak this morning about lack of commitment. "Lack of commitment" is a descriptive term, and perhaps in her case a reflective one. Lack of commitment from government to government for proper funding, staffing and technologies in the justice system has led us to where we are today: lack of commitment to the priorities of the citizens of Ontario. This government promised to change that. They, like those before them, are now demonstrating a lack of commitment.

We enjoy coming to this building. We find it very serene in this environment, sitting here, anecdotally looking at incidents—

Mr Gilles Pouliot (Lake Nipigon): Mr Chairman, on a point of order: With the highest of respect—and I appreciate your dedication—my distinguished colleague, I think it will be acquiesced by all present, in our system has done the very best, to the very best of her ability. For her commitment to be questioned, I see it as a personal affront, and I want to make this point.

The Chair: That is not a point of order.

Mr Griffin: I offered to wait until she came.

My second point is that this facility has a very serene, inviting atmosphere for contemplation of all the issues that face this government and the citizens of Ontario. Perhaps this committee should hold this meeting in one of your correctional facilities and see first hand some of the people we're talking about reforming, see first hand some of the people who are serving two years less a day.

Perhaps we'd have a somewhat different view of our justice system and the product we're dealing with.

I've probably said enough. I'll ask my colleagues if there's anything they'd like to add, and we'd certainly welcome any questions.

Mr Terry Ryan: I have been a working police officer all my life and will continue to do so. I'm very disappointed in the governments in the last 20 years. When you talk about a non-violent crime, talk about a break and enter—I'm going to relate a true story to you, because the truth always rings much better than some of the flowery statements we had earlier today by the parole board. They made Elvis Stojko look like a half-miler.

I went to a little place called Wilfrid one night with a partner. There was a lady there with a three-year-old baby and a one-year-old baby, and unfortunately a gentleman decided to go in that house while they were still there. I attended at the scene with my partner. We went in and we confronted the gentleman in the basement, and at that time a violent struggle took place. I'm fortunate to say that the victim of that struggle was not me or my partner but the culprit involved.

The point of this is not that he was there; it was the fear of that lady. Her husband happened to be a fireman—I did not know this at the time—working in Scarborough, protecting the citizens of Scarborough. She was petrified, so petrified that she sold her house and moved away. That's a non-violent crime that you people see fit—not you people personally, but the people in government—to let these people out. What you don't realize—and you sit here in this nice room and it's nice and safe here—is that these people are out and about every day, every night, and they report in to me, exactly like Mr Griffin said, once a month. The other 29 days, they don't report in to me. And they report in to probation and parole once a month, and that's all they do, because those people are worked to the nines.

When I hear that we're going to have cutbacks—I don't see how we can have cutbacks because we haven't got enough people now to deal with the criminal element. In my years of policing and in the last couple of years, we must be doing something right because we certainly have a lot more criminals; so the system is producing a lot of subjects, I must say that, and it is going to continue to do so. Who is going to hire these people? If any of these gentlemen or ladies in this room own a business, you're going to ask for a Criminal Code check when you go to hire somebody—if you're smart you will—and if you have 2,000 applying, why would you hire someone who has a criminal record for theft or break and enter when you can hire some young person who has never been in trouble?

In fairness to the system, these people are not incorporated back into the system and never will be, because their life of crime is the only thing they know. I'm going to tell you people, the first thing they ask me when they come in to report in is: "Terry, where's the welfare office? I want to get my \$200." They get \$200 the first day they get out of jail. Did you know that? We give it to them. It's a great country. I'm really proud of Ontario.

The Chair: Gentlemen, thank you very much. We have an option here and I'll put this to the committee

members. The clerk has advised me that our last presenters are scheduled to appear at 3, which would take us to 3:30. If you wish, we could create some time for questioning, if committee members are agreeable.

Mr Mike Colle (Oakwood): Our next group is at 3?

The Chair: Sorry. Our next group is at 2:30. Mr Stewart, with your indulgence, if we can delay your presentation we can then have five minutes per caucus, beginning with Mr Colle.

Mr Colle: By the way, Mr Chair, I will recommend to the committee that we do have a session of this committee in a correctional institution. I hope the committee will take that under advisement. I'd like to suggest that we do have one meeting, perhaps not in this time slot but later on, in a correctional institution. I think this is a long-range, very comprehensive issue we're looking at and I think that's a good recommendation. I'd like to pursue that, if the committee would agree to that, later on.

Something that's very real in my community is that an individual right now has been released under provincial parole and he's a convicted paedophile in the United States and in Canada. I've been dealing with the police officers in my area, and they're caught between a rock and a hard place because they can't give out any information about this individual. Part of the conditions for his release have been that he not be in school yards or parks, but the individual has rented an apartment across the street from a school which is about maybe 10 metres from the school yard.

How can a community or elected representatives deal with this type of problem? Is there any way of advising or alerting or keeping an eye on this individual so he doesn't commit another offence or that if he does violate the parole conditions, the authorities are made aware of it? How do we do this? If the person's living across the street from a school, you would think the parole officer would say this guy has violated, if not the letter of the law, the intent of the release conditions. This is the second time this has happened, by the way, in the last year in my community. We had another individual the same way. What suggestions do you have?

Mr Griffin: I guess there are a couple of points. First of all, there are people, and I think this demonstrates it, in our communities who are beyond treatment, are beyond rehabilitation and are going to reoffend. They serve their sentences. The crown, the system deals with them as best we can while they're in the system, but at some point they are going to be released and it's a matter of waiting until they reoffend.

1430

One of the difficulties is that the letter of the law doesn't necessarily reflect the desire of the community, but we seem to be in a system that has gone from concern with the rights of the community versus the rights of the offenders. Let's face it, I think we would all agree—or most of us anyway—that it's ludicrous that somebody with that behavioural problem would be living next door to your child's school. If we can't protect our children from those people, then certainly as a system we're not serving our communities properly.

For the police, the response is twofold. One is to alert the community, and we've discussed the problems there

and the law that's standing in the way, and the second would be then to put 24-hour surveillance on that person until you can find them in a position where they've breached their parole, hopefully before they actually are in a position to reoffend. That's a pretty expensive proposition. When we talk about the cost of parole and the cost of incarceration, consider the cost of police officers monitoring somebody's behaviour day and night, 24 hours a day.

Mr Pouliot: Welcome, one more time. I have, gentlemen, three brief questions. As you are most aware, Douglas Drinkwater is presently conducting a review of the workings of the parole board in Ontario. Do you intend or have you been asked to become involved and to make recommendations?

Mr Griffin: We haven't been asked. Granted, our attention has been somewhat focused in other areas in recent weeks, but certainly we intend to seek out the opportunity to make submissions to Mr Drinkwater.

Mr Pouliot: Being the foot-soldiers, 60 years of expertise, plus the members, of course, who you represent, it's imperative you should have your day and your recommendations.

My second question: We all hear of budget cuts today. In a broadly summarized form, and sometimes our anxiety leads to fear and rumours take on extraordinary proportions, do you feel that you are adequately funded to do the work you are asked to do?

Mr Griffin: No.

Mr Pouliot: My last question: I say this regardless of political philosophy because as you have so well indicated, and you've mentioned 20 years—no one will take the quote of 20 years to task—the fact remains that it's been a long time since you've been demanding what the public actually is demanding. Do you have an open-door policy? Do you feel you have ready access to or a relationship with solicitors general, regardless of party affiliation or party stripe? Do you feel it's easy to access people?

Mr Griffin: To be fair, I think we have had the ear of all three governments, the past three governments as we know them, as far as the ability to consult with the Solicitor General and be consulted in decisions that affect police in the community is concerned. To what degree those consultations result in change is another issue, and I would go one step further and say that often the Solicitor General is limited in what they, as a minister, can deliver of behalf of their government. In some cases the bean counters have taken over the asylum and they're ultimately the people who are making the decisions.

Mr Pouliot: Thank you kindly.

Mr Skarica: Actually, I have a partisan question. I was a crown attorney in the last 12 years and I noticed over the last five years when the NDP was in government that there was a total focus away from property type crimes such as break and enters and so on and so forth. I've seen the stats now, and this is true across Ontario, that if you wanted to do a break and enter you had a 1 in 10 chance of getting caught; if you wanted to do an auto theft I think it was even 1 in 12, and that was consistent throughout the province.

What was happening when these guys were released on parole—they're not stupid. They know that. With these reporting deficiencies and the fact that they would never be arrested if they turned to property crime, if you look at the stats, there's a massive increase, in fact a doubling, of those types of crimes. Arson: There's about a 1% chance of getting caught. What has that focus away from investigating and prosecuting break-and-enters, thefts and arson had? What impact has that had on recidivism?

Mr Griffin: I'll allow my colleagues to jump in, and I know Terry's probably more familiar than I, but I'd also make the observation that it's not just that it's not a priority provincially, but that budget cuts at the local level prevent police forces from even attempting enforcement. In most cases, we don't even send police officers to investigate property crimes. I would hesitate to guess that in most communities in Ontario now, if you were to report a simple property offence such as theft from your vehicle or a mischief to your home or your business, you will be hard pressed to get a police officer to even attend.

This morning we were at the Strict Discipline Task Force meeting, making a presentation there, and we were asked what we thought about community policing. Really, our response was pretty blunt: How do we teach our children the value of our property and the value of respect for the property of others when if somebody takes their property—I think the most frequent example would be a bicycle—they won't even see a police officer? If you phone the police station, somebody will invite you to make a report over the telephone and they will invite you to come in, in two weeks' time, to see if anybody's turned your bicycle in. Is that community policing? What does that teach our children about the value of other people's property?

From my perspective the question is quite correct, that the priority has shifted right away, that the resources aren't there for us to deal with that and that we have a rob Peter to pay Paul approach to policing in this province. If the flavour today is going to be impaired driving, we will concentrate efforts on impaired driving but at the sacrifice of something else.

In relation to Ms Boyd's comments this morning, if the enforcement priority of the day is domestic assault—I would respectfully submit that it was and certainly was carried out as the priority—we take resources from something else, either impaired driving, drugs or what have you and focus them on that. What we gain in one area, we take from somewhere else. If you want true community policing, then you're going to have to add additional resources to ensure that you're not promoting one concern at the sacrifice of another.

Mr Ryan: Mr Skarica, you're a former crown, for 12 years; you're obviously not practising now. I want to tell you that since you've left it's Monty Hall makes a deal in Ontario. Truth or Consequences is not even close to the courtroom system now, because they come in and what people want to look at here, and I'm very serious when I make these comments, is that if you look at somebody on probation and parole now, somebody who's had a sexual assault and did two years less a day, but the original charges were rape, assault with bodily harm, break and enter—

Interjection: Murder.

Mr Ryan: —murder, and they make a deal, that person, for the sake of the crown and for the sake of the police and the sake of everyone, gets a deal. But as people who are involved in that, if you know the circumstances, when you go to look at that person's criminal record, you cannot look at what was dealt away. That is gone. That cannot even be looked at. That's not reality, because the only reason that he got that deal was because we saved money and time by making a deal. So the serious offence that he committed—I had some real problems here today in the back of the room not to come up and speak about the parole system.

I'll give you an example of a guy yesterday who came in on parole—no names—and he was impaired, causing some minor damage to people's bodies. Then, when I checked his criminal record, unfortunately, since 1972 the only time he wasn't in trouble was when he was incarcerated in our provincial jails. Every time he got out he did something wrong, from robbery to rape, to B and E, to assaulting police, to assaulting citizens. He's two years less a day, but in reality he's not two years less a day.

1440

We have a system in Durham where we put him on a computer and we pinpoint where our criminals live. We're getting better. What happens is, we may have Joe Smith living here, but all of a sudden there's about 40 little pinpricks around Joe Smith. You know what? Joe Smith may be breaking into your houses when you go to work. "I'm sorry, but he reported in once a month. I'm really pleased about that. And if he had an electrical little thing on him, why can't he go for a walk in his neighbourhood?"

This is ridiculous. You people listen to these people. These people are spinners. As if an electrical appliance is going to stop somebody from doing a crime. It's like giving somebody an order from a judge, a provincial court judge—you'll appreciate this—that there's a restraining order. Here's a piece of paper. I mean, it's white, it's got "Official Document" on it. It says you cannot go near that woman. You know what? He pulls an O.J. and he goes over there and kills her. But we had that restraining order in place. Boy, that was important.

Mr Colle: You're not saying O.J. was guilty, are you?

Interjections.

Mr Griffin: I think one of the points that Terry just reminded me of that I missed in the presentation is that they talk about risk assessment and classifying risk. I think it's really important, as Terry points out, that you can't do that on what the offence is. You have to look at the circumstances of the incident. I think Suzack, and if you have the opportunity to read Ms Wein's report, spells that out in great detail. Just because the person was convicted of impaired driving doesn't mean there weren't a whole host of other incidents which may include a police pursuit, may include violent behaviour, that aren't reflected by ticking a charge category on a box.

The Chair: Gentlemen, thank you very much for your time and for your presentation.

Mr Agostino: On a point of order, Mr Chair: Are we going to somewhere deal with Mr Colle's motion, or what's the process for that?

The Chair: We can do that after the last presenter.

JOHN HOWARD SOCIETY

The Chair: The next presentation is on behalf of the John Howard Society. Good afternoon, sir, and welcome to the committee.

Mr Graham Stewart: Thank you very much. I would like to begin by thanking you for inviting me to come and present my views with respect to parole, and particularly the audit that was conducted on parole.

Mr Stewart: My name is Graham Stewart. I'm the executive director of the John Howard Society of Ontario. Ontario is the provincial umbrella organization for John Howard societies which provide social services to 17 Ontario communities.

Just a bit of background to give some reference: We are sometimes referred to in the media as a prisoners' rights group, and I'd like to make it clear that we're not. We're a citizens' based group; we're a charity; we're represented by some 5,000 or 6,000 donors and members within our communities.

The John Howard Society was begun in Ontario by the chief of police of Toronto, General Draper, in 1929 because he felt that police actions to arrest and detain were undermining the people who were leaving jail under circumstances where they had no assistance or opportunity to become part of mainstream life again. He did not think that rehabilitation and police enforcement were mutually exclusive, and we don't either. We think that the whole nature of the criminal justice system is that people must be held accountable and there is punishment, but we also must be concerned about the conditions of release and the risk that the person presents in the community, and address ways that will actually reduce that risk.

Much of the talk about risk, I would like to begin, is the risk associated with releasing a person earlier than he would otherwise get out of jail. Of course, it's self-apparent that if a person's in jail he is less likely to commit a crime; at least that affects the community. That's self-apparent. At the same time, I think there's a general recognition that a few months in jail is not going to do very much to reduce the risk that the person poses ultimately anyway.

The fundamental question which was asked this morning but not answered, but I think is key, is that unless parole release actually reduces the likelihood of a criminal offence through some kind of rehabilitative effort, then there really is no rationale for parole at all. That is the assumption.

With that in mind, I'd like to read you what the purpose of parole is, because this was missing from the report of the auditor. I think it's very important, if we're going to be talking about how effective parole is, to begin with what its purpose is. According to the act the purpose of conditional release is "to contribute to the maintenance of a just, peaceful and safe society by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and their reintegration into the community as law-abiding citizens."

There are two notions there. One is that it contributes to a safe society, doesn't work alone; there's nothing about a parole decision per se that's either rehabilitative

or protective. Second, the mechanism is by facilitating rehabilitation. I would like to say that refusing parole *per se* does not offer very much in the way of public protection so much as it's an admission that there's absolutely nothing the state can do to reduce the risk this person presents. In other words, refusal of parole at this point is saying, "There's nothing that we can do but simply leave the person till the termination of his sentence." I think that's a fairly serious decision to make and one which should not be taken lightly.

Before talking about the rehabilitative potential of parole, I would like for a moment to think about the degree of protection that extended incarceration provides in Ontario. This has already been mentioned; we're talking about those who are serving less than two years. Some may feel that some of those people should be serving more than two, but the jurisdiction we're talking about is those who are serving less than two years. They're eligible for parole at one third, and they would be released on remission at two thirds, so parole has an opportunity to intervene in that middle third.

The maximum period of time is eight months; the usual period of time is two to three months. Only 11% of those in provincial institutions actually serve more than six months in the first place, so we're talking about a very short window of opportunity for parole to become involved. If they decide to deny, the person, on average, will stay in jail for a couple more months and then be released with no supervision, no resources, no treatment, no rehabilitation, no attempt to reduce the risk he presents.

There's a couple of points I'd like to make. I'd like to go back to the question of, does parole actually reduce reoffending? Does it reduce the risk by its action? First of all, parole in Ontario as it operates today, with the people in our system, has not been evaluated, so we don't know. The research has not been done. One would think that with the public interest and concern we have about crime, the criminal justice system would be a prime area for exhaustive research, but in terms of our operation, it's not there.

It's more, I would submit, than simply having better data on reoffending of those on parole. That data by itself will not allow us to evaluate parole. You have to look at it in terms of control groups if you're trying to see if there's any difference. For instance, you can have a very high success rate if the only people you release on parole are people you know will not commit offences, but that may not demonstrate that parole is worthwhile at all. On the other hand, if you can significantly reduce offending of higher-risk groups, even though you have a failure rate in fact you may be reducing victimizations. That's important.

1450

The second point is the effectiveness of parole. It depends more on what happens during the period a person is under supervision than the decision of the board itself. For the board to be making decisions without being sure that there are the necessary resources to actually effect some kind of rehabilitation will always put the parole board at the point where it appears to fail.

The third thing is, there has been a lot of research generally about programs, services and approaches, strate-

gies to try to reduce reoffending, and there are four points I'd like to make for which I think the literature is compelling, if you read it and look at the analysis that's been done.

The first one is that relying on imprisonment alone, without treatment or services, will increase recidivism. If you only use imprisonment, the chance of a person committing a new crime increases. That shouldn't surprise us.

The second thing is that poorly run rehabilitation services increase recidivism. They're not neutral; poor services increase crime.

The third is that intensive programs, even the proper programs, directed at low-risk offenders increase recidivism.

The fourth point, and there's no doubt in the literature about this: Properly designed and run programs that address moderate- to higher-risk offenders and target the particular factors in their personality that can be modified and which are related to crime can reduce reoffending by as much as 50%.

Much of this research has been done in Ontario. We have some of the best researchers in the world in Ontario, James Bonta, Don Andrews, Paul Gendreau and others, who have done extensive research, including a lot within the Ministry of Correctional Services, and indeed have been key in the development of the LSI, which was referred to this morning. They're in demand in jurisdictions around the world and I think what they're saying is very important, and I would hope that if there's really serious doubts about the potential of programs to reduce recidivism, you will have some of these people appear before you.

The problem is that when we focus entirely on the risk of releasing people, we ignore the risk of doing nothing about their problems. What is the risk associated with not attempting to carry out any kind of rehabilitative behaviour change initiative?

Policy directives to the parole board today are driven by sensational incidents; they are not driven by success rates. Approximately 85% of those on Ontario parole complete their paroles, we've found, successfully, and of those who fail, approximately 2% have been convicted of criminal offences.

There's some reason to be optimistic. There are three million people in Canada with criminal records. There are 30,000 in jail. It's absolutely wrong, absolutely misguided to assume that once an offender, always an offender. It's simply not true, and it's very destructive to allow ourselves to fall into that.

Those who work in the system itself become the most jaundiced about it because they often only see the failures. The example another person gave once is that if you work in a bar you begin to come to the conclusion over the years that everyone's an alcoholic. If you're working with offenders and you're working with offenders coming into the system, you only see the failures and it's very hard to remain optimistic. That's why the research is important, that's why we need to do it.

Parole avoids risk rather than reduces risk by only focusing on what's considered the very low-risk people. Those, by definition, are people who really don't need parole. If you're not going to commit an offence, parole

will not change behaviour, hopefully, in those circumstances. It has to be focused on something else. Risk avoidance has become, I would suggest, the key word in parole decision-making, rather than risk reduction. Much has been made of collecting information about the person's background; of course it's self-evident that to make informed decisions, you have to have information and it has to be complete and it has to be accurate.

But what seems to be missed with all this is, what do you do with the information once you have it? It seems that all you do is decide that you're going to take the people we're most worried about and forget about them. Well, that may avoid the risk to the establishment of having appeared to have failed, but it doesn't reduce the risk to the community; it doesn't make it safer for you and me when we go home at night.

With that type of logic, the perfect parole board is a parole board that releases no one. There's no other body I can think of that can avoid criticism by conscientiously avoiding accomplishing its purpose.

The Ontario Board of Parole is the most conservative parole board in Canada. Other provincial parole boards grant paroles at a rate that's 50% higher, approximately, than the current granting practices in Ontario. Parole in Ontario accounts for approximately 8.6% of time served in Ontario. It's not a monstrous program; it's, if anything, a pilot. It only considers 11% of the people who go into these institutions and completely ignores those who are serving less than six months, which is the great bulk.

The interesting thing is that although all the evidence suggests that a properly run parole system is far more effective than continued incarceration, it's also far less expensive. Corrections may be the one ministry in the current environment that can actually be much more effective and at the same time much less expensive.

I have a number of recommendations I'd like to make with respect to parole to summarize my perspective.

The first is that I believe appointments to the parole board must be distanced from the political process.

Second, appointments must reflect the knowledge or the willingness to train people to understand what the strategies of risk reduction actually are. It makes no point to have a hospital in which one's diseases are diagnosed but no one has the knowledge or the authority to effect any treatment.

Parole board members, I believe, should be far more accountable to the parole chair, and that's one of the reasons the appointments must be distanced from the political process.

The decisions to deny parole should be justified with exactly the same detailed scrutiny as the decisions to grant parole, because we are talking about trading risks here, not avoiding risks.

Programs and services should be directed primarily towards those who present a moderate to a higher risk. A range of professionally designed and operated programs should be developed in the community which address the particular factors, based on the best research available.

Finally, the temporary absence programs and the parole process in Ontario should be combined and rationalized as a gradual leave process in order to ensure that there's some access to service and ability to reduce the use of

incarceration for your short-term offenders. Thank you very much.

Mr Pouliot: Mr Stewart, you have a commitment and a beauty of the soul which is seldom matched. You have a reputation as a good person, and anyone who has been associated with you, knows of you, cannot deny, and you're to be commended.

You may not like me very much at the moment, sir, or in about two minutes from now. I am torn between what seems to be so commonsensical: your philosophy, the way you see things; I'm absorbed by your dedication. But 15 minutes ago I heard from foot soldiers, from people who view the street in a different way than I do working in my office. Suffice it that I'm a citizen, and I am frankly troubled when I feel I cannot reconcile the philosophy with my safety as a citizen.

I too am more than appalled, I'm shocked, if I see someone with a track record, with a likelihood to re-offend, for it is written: You don't have to roll the dice; you can almost guarantee, and it's not stereotyping. I say, what's that person, he or she, doing on the street? What do I pay taxes for? I want protection.

If I were a police officer serving and protecting in this environment and I could see the turnstile kind of operation, and people using and abusing the system and playing games with the system—the previous presenter made the analogy, and I think with validity, of shell games, but they control the shells—I would quit my job. If I were a crown attorney, I wouldn't wait until after the election to return to being a crown attorney. I would cease being a crown attorney when I'm faced again with the same clients, because those people are recidivists.

I have to blend this, yet I understand that people must be given a chance to re-enter, to become like the others one more time, that in the majority of cases, and I don't think there is any denying, it has been a success story.

I have one question, sir. What are the benefits of having our own Ontario Board of Parole?

Mr Stewart: I'm sorry that it is so hard to reconcile that, although I understand it. Everyone's anxious about crime and no one's excluded from that. The tragedy is that we have such little belief that anything ever works. But the reality is that we have people who are coming out of jail; we don't sentence everyone to life. Under those conditions we have to say, what are the best circumstances and how do we approach that release most effectively?

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The advantage of having a parole board in Ontario I think only exists if the Ontario parole board is somehow unique to Ontario. I think one of the problems we have is that we don't distinguish between the provincial system and the federal system very well.

I think it's a very different matter to assess risk and decide not to release a person who's serving life than it is for someone who's serving another two months. The reality is that risk is imminent: He is coming into the community; what do we want to do? I think one of the advantages of having a parole system is that you have that focus.

The purpose of predicting risk is not just to identify whether an offence will be committed, but presumably

it's to tie it to some kind of initiative that will reduce the likelihood of that offence. Otherwise, it has really accomplished very little.

So my argument would be that if you can have a made-in-Ontario parole with a focus on what we're trying to do in Ontario and recognize the differences in terms of the time that we're working with, then I think we could have a better system. But I think having it as sort of an imitation of the federal system, which deals with much more serious offenders, much more serious consequences and generates much more public alarm generally, is a problem for this board.

Mr Skarica: There was a great deal of lamenting by the opposition—I'm only talking about halfway houses for a moment—about that when they were closed down. But one of the things I found disturbing was that many of the halfway houses—for example, there was one on Bold Street in Hamilton. Were you familiar with that one?

Mr Stewart: Yes.

Mr Skarica: Sexual assault offenders would be sent there and given parole. I remember once looking for one and he was in Toronto somewhere, working, but nobody there seemed to know where he was or what he was doing. What was really disturbing about that was that when I looked across the street, there was a school yard. I find it shocking that somebody convicted for sexual assault would be sent to a halfway house that was across the street from this school yard.

We shouldn't send this person who was convicted for sexual assault to this halfway house which is right across from the school yard. My question simply is, were there any types of decisions made along those lines?

Mr Stewart: There's no reason there couldn't be.

Mr Skarica: But were there?

Mr Stewart: I don't know the circumstances. There's nothing in the system that says you can't take that into consideration. Indeed, you should, and if that happened in those circumstances, it sounds on the face of it like it should have. There is all sorts of authority and jurisdiction within parole to make those kinds of determinations and decide that this person will not be permitted to go to this house or that house and for the same reasons you might decide not to accept the person.

Mr Skarica: The other thing I found disturbing with these people there—and granted, there was only a handful in the halfway house—they didn't know where this person was or even worked. I found that kind of disturbing. You would think that you'd want to know where the person was during the day and have them check in once in a while, or check up on them once in a while, but that wasn't done either, to my knowledge.

Mr Stewart: Yes, and it should be. You're right. Those are legitimate operational concerns.

Mr Skarica: Another thing I found disturbing was that if you went there and you had to come back at 10 o'clock, then if you came back at 10:30, that was okay and there wasn't a strict time frame. For example, if you had to go to jail and you had to check in at 11 o'clock, if you did weekends, intermittent-type sentences, if you were a half-hour late you were charged with being unlawfully at large. But what I found was that after you were convicted and you were sent to a halfway house and

you'd done your time and this is a break that you're getting, if you showed up at 10:30 and you had to be there at 10 or if you were an hour late, nothing happened to you. Perhaps you could comment on that.

Mr Stewart: I think we could go on forever with incidents where systems don't work well, and I don't think it's just corrections that have those particular problems. They were throughout the criminal justice system.

I guess what I would say, though, is that a halfway house is not a jail. A halfway house is a halfway house and by definition is less secure than an institution. If we don't want the person to be in a less secure institution, then we don't put him in a halfway house. So by virtue of that, some of the regulations that might be enforced very rigidly in a jail might be enforced somewhat less rigidly in a halfway house, depending on the circumstances.

But if we want to use a residential facility as a stepping stone between complete security and the community, then I think we always have to recognize that by definition it's going to be less secure. The question is whether it's worthwhile.

The fact is that a halfway house can, with appropriate people in some circumstances, provide a worthwhile service. It can have a positive effect. If people are selected properly for it and if the programs are there and if the houses are run properly, they can contribute positively to the likelihood of the person not reoffending.

Mr Skarica: One other thing about halfway houses that I found disturbing on occasion was that you would often see two people charged with an offence, three people charged with an offence, and often as not they would have met each other in jail or they would have met each other in a halfway house and off they go doing a crime together.

Do you have any statistics on how many people actually went to these halfway houses and were able to complete their—say they had a six-month and they had to be there for two months, they got out after two months, typically, and then they would be in a halfway house for two months and then they would get their two months for free time. How often would those people commit crimes with other people in that halfway house? Do you have any statistics on that?

Mr Stewart: I can't tell you how many times they committed crimes with other people in the halfway house. I know that in fact the offence rate is very low for all people in halfway houses. Even in the federal system overall, where the paroles are very long compared to the provincial system, we're talking about 12% who commit a crime at all during the period of their parole. For halfway houses it's much lower than that.

The issue of association is important, though, and that's one of the problems with incarceration. If there's anyplace where you're going to associate with other offenders it's in jail, and if there's any indication that there's one way of maintaining a criminal lifestyle, a criminal mentality, it is in fact through association. So one of the most effective ways of trying to change people's behaviour is to make sure they're not in association with other offenders.

Mr Agostino: I just want to ask about that line between having to assess what is in the best interest: either the risk that individual poses to the community or the rehabilitation element of that early release. It's something that obviously you have to come to grips with and the parole board has to come to grips with and the police and the justice system have to come to grips with in reality. It ties into, first of all, which way should we lean towards when we have a case that someone is a potential high risk to the community? You release this individual without any real protection, without any real opportunity for the community to know that this convicted paedophile or convicted child molester is now moving in two doors down from a school.

On one hand you have the system being handcuffed and the police being handcuffed from the point of view that they can't release that information without there being libel on one hand; then you've got a parole system that's saying, "But it's best to integrate this person back into the community, so this is why we released him." So you've got the system slanted away from community safety, and the rehabilitation of the individual takes precedence. I'd like you to comment on that particular aspect.

Secondly, as a tradeoff, for the parole board to continue to do what it's doing in regard to sometimes releasing high-risk individuals, would you support giving the police the authority and the power to make decisions and judgement calls in releasing pictures, information and details about where someone is moving if they believe there's a risk to that community?

Mr Stewart: I'll deal with the latter first. No, I'm opposed to the releasing of names and information by the police. I'll tell you why. We have to ask ourselves, when the name of an offender is released, what is the reaction that we expect, and particularly, what's the reaction we expect to the offender? I don't think it's hard to imagine that it's virtually impossible for offenders to ever break free of criminal activity if they're in an environment of constant harassment and public attention. What will happen and what has happened, what's happened in Canada and what's happened in the United States, is that inevitably the person goes underground. He's not going to stand there in the downtown streets while his name is being put forward. He goes someplace else.

There's not a shred of evidence that says identifying the person reduces his risk. All it's doing is shoving him from one community to the next. So what we might have had in place within one community is that we know who he is; we know where he is. If he's under some form of supervision we probably could require that he be involved in some kind of relapse prevention program. If an offence takes place in the area we have some idea who to look for. We've got a number of mechanisms which could actually reduce the risk. But if you simply open it up for some kind of public harassment, which is really what it amounts to, the person will move someplace else, and that's what's happened. I've never had anybody explain to me how this kind of public identification removes the risk of this individual and I don't understand what interest the police have in shoving a risk from one community to another.

1510

Mr Agostino: Can I just give you one brief example, though. In Hamilton we had a situation where a picture was released. The information was released. The police took the risk of doing it, and that individual was recognized, by parents, hanging around a park. The police were called and this individual was hauled back in. That is exactly what happened in that case as a result of the police risking that and a parent recognizing that individual hanging around a park.

Mr Stewart: I can give you all sorts of examples where people have gone underground, taken off and gone into other communities. The most difficult problem we have in criminal justice is the kind of problem you're talking about, the person people are very frightened of whom they see as high-risk. The limitation we have essentially in a democratic society is detaining people not so much for what they've done, but for what we think they're going to do in the future. That's a serious problem.

I don't think we will ever have, in Canada, a situation where everyone whom anyone is afraid of is in detention, so we're always going to have to be making decisions about the circumstances of their release. There are always the people who are of concern. Under those circumstances we're trading risks, and the decision of the parole board, I would submit, is to decide whether the short-term increased risk of releasing the person before his release is counterbalanced by the potential to reduce his risk in the longer term by changing his behaviour.

In order to do that in an informed way, that board needs a considerable body of research. It can't just be done on a whim, it can't be done on a guess, and it shouldn't be criticized on a whim or a guess. What I'm saying is that there's a lot of information now, a lot of research that has been done that gives very good guidance and can reduce reoffending. It just seems so palpably obvious to me that if we're trying to develop policy, we base it on the very best information that we have.

Mr Sergio: I'll try quickly to formulate a question and make some comment as well. It seems that if you are frustrated and we are frustrated and those who have to defend the public are more frustrated, then we have a system that is full of cracks. It's a system where the effectiveness of that system cannot be measured. The report that we have here from the auditor does not speak of effectiveness or quality. It speaks of a process. It does not have a mandate, if I'm correct, to address the effectiveness of the Ontario parole board.

If we're don't have a system that can measure the pluses and minuses, pros and cons, how can we assure—and don't get me wrong; I'm not totally on the side of the belief that we should keep everybody for 99 years for whatever reason, but how can we assure the public that we have a system that if it's broken is being fixed, and that we can offer protection to children, women and everybody else?

You have mentioned making non-political appointments. There is no such thing. I don't know of anyone who has not been appointed unpolitically. It's all political. Now, who is best? Someone who at least has some experience, connections, knowledge, someone who is

appointed at large. How do we get all this information together and deal with the facts which have been brought into a court of law where facts have been exposed, perhaps witnesses, where lawyers have been grilling a particular offender and where a judge, based on that information, on those facts, has given a particular sentence?

Then we have another group, if you will, non-elected—appointed or whatever—that according to its way of seeing things says, “Yes, this person can go back into the community, into society.” I have a problem with that as well. I have a problem with some of the other views as well, but I think the public is the ultimate person, if you will, as a community, as an entity, that deserves the maximum prevention. The system so far does not give them that. How do you reconcile your views with that of the community at large?

Mr Stewart: I think the court's trying, the criminal justice system in particular, to do two things. One, it's trying to punish, because it wants to see that there's a consequence to a particular behaviour, but at the same time the correctional system is trying not to harm. The problem is that generally the infliction of pain, some kind of deprivation, frequently does harm. We know quite well now that there's very little about sitting in a jail cell that enhances a person's ability to live constructively in the community.

So we're trying to do two things. That involves some kind of balance. It involves some kind of compromise. When a judge sentences, he knows there's parole. He doesn't sentence in the notion that there's no possibility of parole. When the sentencing commission of Canada did its research among judges, it found the judges quite regularly take parole into consideration when they pass sentence. What the sentence is, is not a specification of exactly the circumstances of how you're going to serve your sentence forever, it gives correctional authorities a range. The laws relating to paroles and gradual release and remission are as legitimate as the laws relating to sentencing. A judge knows that if he sentences a person to nine months, he could be out in three on parole, he could be out in six on remission. He knows that. That's part of the equation.

So though it's frustrating, we tend to think we want it to mean exactly what it says. In fact, this is the kind of balance that we've tried to work into a system. The judge sets out some terms, he knows there's a minimal portion of that that's purely punishment, but that also there's some opportunity, providing the person's willing and providing there's resources available and providing there's proper planning, to actually try to change the behaviour. So we try to do both because, in the long run, punishment that doesn't actually bring about any behaviour change is a very expensive indulgence. It may relieve us of certain frustrations, but it's very expensive, both in terms of the cost of incarceration and also in terms of the cost of future victimization.

Mr Sergio: Do you think the system's too harsh the way it is now?

Mr Stewart: I think sometimes it's too harsh and sometimes it isn't. It depends very much on the circumstances. My concern is I think the parole process today has become so intimidated that it's not in fact reducing

risk. It's because the only concern is the risk of release; there's no concern about the risk of not doing anything to change behaviour. In the long run, and particularly with short-term offenders, as we're talking about, it's only some behaviour change that gives us any real protection.

If we don't focus on that, if that isn't the priority and if we haven't used all the research, all the knowledge, the very best of our ability to craft the system that we can show reduces reoffending, then I think we've really allowed our own passions to interfere with what I think has to be a very thoughtful and carefully devised process. That's what bothers me, that a lot of the discussion is anecdotal. We hear about crimes, we hear about circumstances, and of course they're offensive and they're frightening, that's what crime is by definition, but it doesn't help us to decide how to analyse a system if all we do is endlessly relate anecdotes of crime.

We cannot get to the position where the only way we will tolerate rehabilitation in the system is when there's no crime. There will be crime; there will be failures. There's always risk. The point is that we have to have some balance. The question is, what are the principles? My argument is not different from the police's in that in the end, the reduction of reoffending is the primary objective. The question is, I doubt that spending two months in jail and then having no supervision, no resources, no accommodation, no treatment, will effectively accomplish that end. That's the system that's being promoted and defended today. It's irrational; it's ineffective.

The Chair: Mr Stewart, I want to thank you very much for your presentation.

Mr Stewart: Thank you very much for having me. I appreciate that very much.

CANADIAN RESOURCE CENTRE FOR VICTIMS OF CRIME

The Chair: The next presenter is presenting on behalf of the Canadian Resource Centre for Victims of Crime.

Mr Steve Sullivan: I'd like to thank the committee for allowing me to come today to speak to you about the Ontario parole board. I've asked my friends from the Police Association of Ontario to join me at the end of my presentation in case there are some questions that members didn't have a chance to ask earlier that they could answer at that time. I'll try to keep my comments brief.

I'm Steve Sullivan, executive director of the Canadian Resource Centre for Victims of Crime.

The resource centre is an organization that is dedicated to the rights of victims in justice reform in Canada. It finds us in areas of both provincial and federal concerns and the Ontario parole board is part of that concern.

I'll just start off by stating that although it wasn't in the mandate of the auditor to examine the issue of whether we even need an Ontario parole board, I'd like to suggest that perhaps we don't. We are one of the only three provinces in Canada that has its own parole board and I just wonder if the money that we're spending, the provincial funds we're putting into the Ontario Parole Board, could not be put to better use. We're talking about cutting crowns, we're talking about cutting police

officers. I think those are two issues that better serve the interests of justice in Ontario. That's not to say we shouldn't have parole in Ontario. It would simply be picked up by the National Parole Board as is done in almost every other province in Canada.

1520

Having said that, I'll make some general comments with reference to the auditor's report and then answer any questions you may have.

As I read the report by the auditor, it struck me as being all too similar to a report that was referred to earlier by the Police Association of Ontario, the Wein report. You may notice in the brief that I handed out that sometimes it's referred to as the "Weir" report. That's my mistake. There was a Weir report done a couple of years ago at the federal level. A guy who was on a day pass killed two people. So please excuse that error.

If you look at the issues that are identified by the auditor, the recommendations that are made, they are so similar to those that are made by Bonnie Wein who did the report into the murder of Constable Joe MacDonald. I've included in appendices those recommendations and you will see the striking resemblance that they have. Those are the same issues that are raised over and over again at the federal level every time we see an offender who reoffends. They're the same issues, I think, that are probably identified every time there's an examination of the parole system.

It's not a question of what the problems are any more. It's a question of what we're going to do about them. I think we all can agree that parole is something we want to keep in this country, but the secret to a successful parole system is identifying those people who are going to benefit from parole and identifying those who aren't and making a differentiation.

If we simply just let people out on parole despite their risk, I think we're not really focusing on what the whole point of parole is. It should be a benefit that people earn. It shouldn't be a right. It shouldn't be something we give everyone. We should focus on who's really going to benefit from those people, because we have to admit to ourselves that not everyone is going to be rehabilitated. We can't help everyone, so those we can't help we must be protected from.

The main issues I focused on in the auditor's report were issues of training for parole board members, issues of enough information and the correct information being put before those members and the issue of those members being adequately able to decipher the information that's put forth for them.

All of these things went wrong in the Joe MacDonald case. Let me just say that we focus on a case like Joe MacDonald because this is not an academic exercise. What we're talking about here today in this nice room and in our nice suits is reality. Reality is Nancy MacDonald and her two children who no longer have a husband and a father. Reality is the gentlemen you see behind you who no longer have a colleague.

So when we talk about Joe MacDonald and the report that was done, it's not simply to focus on and lay blame on a parole board who went wrong. It's to say that:

"Look, the decisions that are being made affect people's lives. Therefore, we need to ensure that those decisions that are being made are the right ones." That means we need to have the information put before the boards. That means those people who are on the boards need to be able to understand and decipher the information and they need to be able to properly examine the issues that are put before them.

In the Joe MacDonald case, just a little bit of background on Clinton Suzack: He was a man who was not unfamiliar to the law. He benefited from a plea bargain which saw him plead guilty to 17 different criminal charges, ranging from aggravated assault, assault causing bodily harm, assault and a number of failure to appear charges. There were 17 different offences. There were nine different victims on five separate occasions. Somehow, Mr Suzack managed to convince the second parole board that he went before—he was originally denied parole—he managed to convince at least one of the members that those incidents stemmed from one date. It was all just a big thing. He was drunk, he was at a party, that kind of thing. So he got parole.

I seriously recommend that you examine the Wein report. I don't want to go into too much detail about it because it would take too long. Needless to say, he was out on parole when he and another gentleman, Mr Peter Pennett, shot Joe MacDonald five times.

The report concludes that the essence of what went wrong here lay in the overall lack of precise communication among correctional officials. This included a lack of communication of the full details of the offences, a failure to prevent the inmate from minimizing the facts and thereby affecting decisions that ultimately affected the parole decision, a lack of communication of the real propensities of the offender, a lack of effective communication of the depths of concerns of those who knew the inmate best—a lot of lack of communication in there, and that was an issue identified very heavily in the auditor's report—not being taken seriously.

With the Clinton Suzack matter, on both parole hearings, a letter was written by the Sault Ste Marie police force asking that Clinton Suzack not be given parole. There were concerns of the correctional people who worked with him in the prison who echoed those concerns. However, the board did grant parole.

The Wein report is nothing short of a scathing report of a board that really didn't do its job. Some of the recommendations that you will find, as I mentioned, in the auditor's report are in the Wein report. Some of them are also in another report that was released after the inquest into the death of Christopher Stephenson, the young boy who was murdered by a man out on parole. I've included the relevant recommendations as well as the appendices.

I won't go into detail about the comparisons of the recommendations I've done in the brief. I hope you have a chance to review those. But I will say that further to those recommendations made in the auditor's report and further to our recommendation, we really should consider the issue of whether we even need a parole board in Ontario.

I would recommend that we look at the federal system and the National Parole Board. They've recently introduced measures that will allow parole board members to be disciplined if it's found they're not able to do their job. Contrary to what some people may say, that's not an attempt to point fingers or lay blame, it's simply a process of determining that we have the best people available doing the job. It's a tough job. We need to make sure that the people there can do the job. To be honest with you, I wouldn't be a very good parole board member, and I think a lot of the people we have on our parole boards, both at the federal and the provincial levels, aren't very good people to be there. It's not that they don't mean well, they're just not good at it.

The process that's introduced in Bill C-45, which was recently passed by the federal government, allows an examination of those kinds of decisions. If someone has been negligent or it's found that they can't do the job they're supposed to do, they can be removed from that position. That's something the Ontario system may want to look at.

I think I'll cut my remarks short to allow for questions, and if there are any questions of the Police Association of Ontario, please feel free to ask them as well.

Just in closing, once again, I have to strongly urge you to take a look at the report into the case of Clinton Suzack. You would almost think that it was written by the same person as written by the auditor, the recommendations are so similar. It's an indication that while we've identified the problems over and over again, we really haven't addressed them and we haven't fixed them. I think that's the biggest problem we see in both reports.

Mr Marcel Beaubien (Lambton): Mr Sullivan, I think the previous presenter mentioned that the purpose of the parole board was basically to contribute to a just and peaceful society and, secondly, to facilitate rehabilitation—more or less. I'm paraphrasing the whole statement.

I think also in your statement, you mention that people we release on parole should only be the ones who can be rehabilitated. I think the police association also alluded to that fact. How would you choose or how would you decide who has the best chance of rehabilitation? How would you implement a system like that?

Mr Sullivan: I think the parole board, having the information about the offender before them and the various assessment tools which have been developed that are used a lot by the National Parole Board—I don't know how much they're used by the Ontario parole board. All that information, the experiences of people who've dealt with the offender, like the police, the correctional service staff, the victims—you compile that information, and while I don't think we can ever be 100% correct, hopefully that kind of information will lead us to at least make the best decisions that we can. No parole board is ever going to be 100% correct, and we can't expect them to be, but we can expect them to do the best job they can and in order to do that they need the training, they need to have the information before them that they must have about the offender—all the information, not just parts of it—and hopefully with those kinds of initiatives we'll make the best decisions that we can, keeping in mind that we're never going to be right all the time.

1530

Mr Beaubien: Another question: I'll try to make it as brief as I possibly can. As a former police services board chairperson, in my community nine years ago we made major changes with our police department. I remember dealing with the Ontario police association, basically the union part of it. We had an awful lot of difficulties, but we did implement our changes. I see the police association making a presentation today—a very good presentation—the John Howard Society making a presentation, and your presentation. The system is broken. There's no doubt about that. There are a lot of problems with the system, not only at the parole board level, with the John Howard Society and maybe with the policing and the way we—and we can talk about money, not having enough money, and talking about cuts, but is there a common nerve or is there an interest of all the bodies involved to really try to change the system, or are we only here to try to protect our own turfs?

I get a sense that yes, we'll accuse the government, yes, we'll accuse the police, yes, we'll accuse the John Howard Society or we'll accuse the parole board; that's why it's not working. But are we really working together to try to change the system for the best of the community?

Mr Sullivan: I hope we are. I hope that my being here and a representative from the John Howard Society and the Police Association of Ontario—we're all here to help try and improve the system. Whether you agree with our specific concerns or not, understand that's why we're here. Of course the police are going to be concerned about having enough officers on the street because it affects not only their safety but the safety of the community. The John Howard Society does fulfil an important role in society. Whether we're working together, I think you have to understand that each of us comes from a different place and each of us brings different philosophies and experiences to the table. Hopefully, those different experiences and different philosophies will ultimately lead us to the best solution.

I think this is a process that allows that to happen, that allows people who would normally never talk or normally never exchange experiences to come before a group that's going to hear from everyone. Hopefully, that will ultimately lead to the change that best serves everyone.

Mr Sergio: Evidently, when the parole board makes a decision on a particular person it would have a lot of information at its disposal. Do you believe that information—sometimes it's sufficient, it's correct, or do you think there should be other resources where more information should be coming forward before the board makes a decision?

Mr Sullivan: I think we should be getting information from as many places as we can. That would include sentencing transcripts, reasons for the sentence, police reports, reports of behaviour within the correctional system, input from victims. Especially dealing with the more high-risk offenders, I think every area we can get information from should be developed and a process to streamline that kind of stuff should be introduced or improved.

I guess the key, once you have the information, is making sure the members first of all read it, and second of all can comprehend what's in there; that they have the expertise or training to decipher the information they need to have. Part of the information will also be any psychological reports that have been done, assessment tools, risk assessment tools. So I think the more information we have, the better. We need to develop the methods to make sure the information is there. Both the Wein report and the auditor's report express concerns that the necessary information hasn't always been there. But once you have the information, you also need to ensure that members are going to read it and understand it, which was one of the problems in the Joe MacDonald case.

Mr Sergio: Even for the low-risk cases, do you believe there is a place, there is a scope, there is a purpose for the board to continue to be in existence?

Mr Sullivan: I think the offenders we would deem low risk would probably be the six-month mark of sentences. In a perfect world we'd have a system which could deal with those offenders as well, but I think we have to give priority to the ones who are the most dangerous; the board must devote most of their time to those people. The six-month sentence in a lot of cases is a sharp, short sentence, hopefully for first-time offenders. I think the intent there is to wake that person up and say: "This is what you're going to get. It's a short sentence, but you could get much more." Again, if we had all the money in the world, the board would have the resources to deal with those kinds of offenders. But I think, given the limits that we're on, we need to deal with the high-risk offender first.

Mr Sergio: To do some justice to the system and to the people, how would you deal with the high-risk cases?

Mr Sullivan: You're going to have to recognize the limits in that as well. We have a system where at one third you have a chance for parole; you can be turned down. At two thirds you're automatically released with no conditions, no reporting requirements. I have to question the wisdom of that. What we're saying there is that, "Okay, you're too high a risk to release at one third, where we can put some conditions on you, but at two thirds we'll let you out and do nothing."

A better system would be that at one third you have that chance, but at two thirds, when you also have that statutory release, there are conditions on you. But again, you're going to come to the place where the offender is going to be released eventually anyway. At the federal system they're looking at the question of keeping people in past their sentence or expiry. With the provincial system as it is now, with the provincial board, I don't know that that's legally possible; you have to examine the issue. But if it was under one federal system, the answer may be a little clearer.

Mr Sergio: Would you like to see more decisions coming from the court judges with no parole for whatever period of time?

Mr Sullivan: Under the federal system a judge can order that an offender can't get parole until serving half the sentence. I don't think that applies to provincial sentences; I'm not sure. So that would be a major—

Mr Sergio: Neither am I.

Mr Sullivan: But it's something that you may want to consider. I think the secret here is, if we're going to have the automatic release at two thirds, that we have some kind of conditions placed on that person. Basically, what you're doing is you're giving the person a third off for breathing. There's really no rationale there.

Mr Sergio: I may not suggest that it's automatic after one third or whatever; there still would be a system in place where you have to go through the motions, if you will. But what I'm saying is perhaps we should have more decisions from the courts saying, "No parole or even going to a parole board until you have served three quarters of your sentence."

Mr Sullivan: I wouldn't object to anything like that, but it will require a pretty fundamental shift in provincial sentencing to allow for that.

Mr Pouliot: The job of Mr Erik Peters is one of a watchdog to ensure that the public are getting value for money. It's strictly a value-for-money added audit, not a financial audit in the traditional sense, if you wish. His findings state under six recommendations not that the taxpayers are being hosed, but that there are some deficiencies. His job is not to question the philosophy but to suggest through mandate, through curriculum, if you wish, that we taxpayers get more or a better bang for our hard-earned dollars.

We have very good research people and we're most appreciative and we thank them, and they indicate through their science, through their research, or one has the impression sitting on this committee that certainly in the past five or six years, with the exception perhaps of 1993-94, the number of people being granted parole under our provincial system, grosso modo, is fairly consistent: so many people coming in, so many people coming out.

We listened intently to our distinguished colleagues, their contribution, and we seem to focus on the high-risk offender. It's not that people don't give a darn about the run-of-the-mill, if you wish, but the ones who are more likely to be recidivists, those who are of a violent inclination, their track record—and you come up with the case of the late constable to attest to that. I think better than anyone it tells the story of what can go wrong with the system.

When I look at the resources, that too has been fairly consistent, about \$4 million. Of course, if you go back to 1917, it would still be reflective. One would have to adjust for the time. Personally, I think it's money, but attitude also. The Provincial Auditor cannot go too far. He can go and suggest that we get better value for money, and when he does that, he will discover he has to analyse the system, but he cannot go to the heart of the system. It is not his mandate, it is not his forte, his expertise. That's not our role here; that's not our job.

1540

Sometimes I'm torn between, "Sure, you have the resources," but on the other hand it's an attitude matter, that if you don't have the resolve to keep the high risk away from society, you haven't solved anything. It's not strictly a matter of budget. It's a matter of budget to monitor, a matter of budget to apprehend, to protect, but it's not a matter of budget when it comes to people, the system of parole.

If I would have one question, if we had the time to develop a theme, I would ask the following, and I know we have to nuance because there is the two years-plus, the federal system and the provincial system: To read all the findings of the federal awards, the way they operate, and then of the provincial awards, and I would like to see some discrepancies, if there are any, what would I be likely to find if I have 70 people sitting on the federal parole board and 70 people sitting on the provincial parole board? Are they the same people? Is their mentality the same? Are they addressing the same?

You read the six recommendations from the Provincial Auditor. You read what the ministry says in defending their position as civil servants. We know that. I had four ministries with the other administration. We know the way we answer the findings and the recommendations of the Provincial Auditor. That's why we keep coming back year after year.

What needs to be done, in simple terms, so when I go back to the people of Lake Nipigon, who pay my wages to sit here, I could tell them that they will feel more secure today because Harry Smith is no longer among us and yet Harry Smith, the other person, has been given the chance because he got a six-month straight sentence and he needs and deserves to be rehabilitated so he has a chance to reintegrate? What do you think is wrong with the system?

Mr Sullivan: That's a big question. I think the system basically works very well. If you look at the numbers of the National Parole Board, at least, most people who are released on parole don't go on to commit the kind of heinous crime that you see Clinton Suzack do.

The problem where the system breaks down is with those types of offenders. It's with the offender who isn't going to benefit from parole, isn't going to benefit from a second chance, perhaps. He's not made the decision to change his behaviour, either because he doesn't want to or because he can't.

You also have to understand the kind of philosophy that the parole board members are working under. They come to the one-third mark. They know that if they let someone out then, they can impose these certain conditions, but they also know that if they wait till the two thirds, this person's going to be out with no conditions. It's almost a subtle form of blackmail that you may find that some of them are adopting that measure where they in other cases would rather not do that.

I don't think that answers your question completely. It's a very open-ended question.

Mr Pouliot: Unless you get the judicial in there, and I don't want to have to listen to Toni for two hours. But I understand what you're saying.

Mr Bill Vankoughnet (Frontenac-Addington): We had to listen to you.

Mr Gilchrist: I don't have time for a long preamble, so I'll keep my question very brief.

Mr Sullivan, we heard the two presentations that preceded yours, both certainly well considered. There was the one from the police association which put down in great terms how the whole justice system is a series of breaks, but by the time we get to the parole board you've gone through a number of opportunities for people to

give you the benefit of the doubt, and if there is any reason to ameliorate the sentence or even the fact that you go through the process, you've probably gotten that break.

I'll repeat a question that I asked to the deputy minister this morning. In light of what we see as the realities today, never mind the philosophy, that one third of all the parolees fail to honour the terms of their parole, that we have the auditor reporting that there has never been a measure done of the efficacy or efficiency of community service programs—and I think one can find adequate anecdotal evidence that they are not overwhelmingly successful—and the fact that the automatic nature of parole right now, the fact that you know you will get out at the two-thirds point, absolutely must mitigate against being a model citizen, because everybody gets out—if it was the reverse, that only those who had done an extraordinary job of proving they'd been rehabilitated had even the opportunity to be heard, I think we wouldn't be sitting here having this discussion today. In light of all of those things and in light of the fact that there is a clear difference between federal incarceration—two years and up—and provincial, which I have to assume was divided on the basis of crimes considered to be serious and those considered to be minor, and the fact that the judge and all the other participants are the ones who on a firsthand basis saw the criminal, can you really suggest or is it your position that we even need a provincial parole board or that entire process at all? Or should the judges be directed that if this is something serious, you send them in that stream, and if they prove themselves, they have the option to get out earlier; if it's a less than serious crime, we put you in another stream, but it's a short enough time period that if you do the crime, you do the time?

Mr Sullivan: I think the problem with that is you have to look at the judge. The members from the Police Association of Ontario identified the fact that Clinton Suzack benefited from a plea-bargaining system, a system which helps the whole justice system work. It sometimes breaks down. In the case of Clinton Suzack, it did just that. Talk about less serious crimes; this guy was convicted of aggravated assault, assault causing bodily harm, a number of other just plain assaults, all very, very violent offences which I think could carry a maximum of at least 15 years, but because there was a bargain with the crown, and that's another whole issue—

Mr Gilchrist: No doubt we'll have an opportunity to address that, but let's go on the assumption that they were appropriately sentenced.

Mr Sullivan: So what you're suggesting is that for sentences under two years, there be no parole whatsoever.

Mr Gilchrist: That's right.

Mr Sullivan: No major problems with myself; however, I think we should still recognize that there are some people who are going to be convicted of offences even of a serious nature like assault, aggravated assault, who may benefit from a program run through parole.

Mr Gilchrist: Not to cut you off, but just because we only have a couple of seconds left, in the alternative, if you're not totally comfortable with scrapping parole, would you agree that in the minimum we move to a

system that nobody gets out before two thirds, and at two thirds you have to have proven yourself? It's not a right; it's the option of the parole board, in its sole determination, to decide whether or not you've proved yourself worthy in those first two thirds of your sentence to be eligible for parole.

Mr Sullivan: I don't know if I'd even go that far. I would say that the system we have now is that at the one-third mark you go through a process like that, and if you don't succeed, then you go through that same process at the two-thirds mark where the conditions are being set. I think that gives the person the opportunity if after one third they realize: "Look, I'm not doing myself any good. Two thirds is coming up; I can get out a little early." That's probably a better system, I think, than just saying you've got to wait the two thirds and that's your only shot.

The Chair: Mr Sullivan, thank you very much for your presentation.

Committee members, there were a couple of matters I want to bring to your attention. First of all, the Management Board Secretariat staff have confirmed that they're going to be available to the committee tomorrow afternoon following the auditor's presentation on possible amendments to the Audit Act. This will allow us to put over the committee's discussion on this issue to Friday morning, following the benefit of Management Board's input on transfer and accountability issues.

One of the things we're going to be considering is this business of value-for-money audits, and rather than have all of the separate ministries who might be affected by this come in and present individually, Management Board is suggesting that they come in and do it within an umbrella framework at the outset and we'll see how that goes. I just wanted to let you know that was happening.

With respect to the matter raised by Mr Colle, maybe, Mr Agostino, you could speak to that further, but I just wanted to let committee members know that the clerk has advised me that this committee's predecessor visited the Don Jail here in Toronto in 1993, I believe, at the time the committee was looking into young offender and institutional services. So there is some corporate memory here, but obviously we did not participate in that.

Mr Agostino: If it's in order and acceptable to the committee, it was an excellent suggestion by the police

association. It would be beneficial to all of us to have an opportunity to visit a facility from that perspective and to actually hold one of our meetings there, and as part of the meeting, obviously, include a tour and, if possible, an opportunity to speak to some of the inmates as part of that process, if that could be arranged.

Mr Pouliot: They know Toni on a first-name basis.

Mr Agostino: I'd be happy to move that if that's acceptable to the committee.

Mr Gilchrist: I would certainly concur. I think there would be tremendous merit in doing that. We have the opportunity either for the Don or for something like the Metro East facility, which might be—I see some nodding heads in the background there—more appropriate in terms of the kind of people we're talking about who are likely to be coming up for provincial parole, and an interesting collection it will be. But I would certainly concur and I think all of our members agree that it would be a worthwhile experience.

The Chair: I would want an undertaking on behalf of the custodian so that we would be released after our visit.

Mr Ed Doyle (Wentworth East): That will be easy: We just apply for parole.

The Chair: The clerk advises me that it's not necessary to move a motion. The committee is generally in agreement with that. I'll leave it in the clerk's hands to contact the necessary parties and to get back to us.

Mr Gilchrist: Am I led to understand that our proposed agenda has been altered, or is Mr Peters going to be speaking in a preliminary sense before we hear from Management Board?

The Chair: Yes, Mr Peters will be presenting tomorrow morning, Management Board Secretariat tomorrow afternoon, discussion Friday morning.

Mr Gilchrist: As opposed to condensing the discussion so that we hear from Management Board and continue the discussion on Thursday afternoon?

The Chair: We can see how it proceeds tomorrow in terms of how much time Management Board's going to take, but that's the proposal for the time being.

Mr Gilchrist: Fair enough.

The Chair: Thank you. The committee stands adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 1553.

CONTENTS

Wednesday 31 January 1996

1995 annual report, Provincial Auditor: Ontario Board of Parole	P-71
Ministry of the Solicitor General and Correctional Services	P-71
Elaine Todres, Deputy Solicitor General and Deputy Minister	
Neil McKerrell, assistant deputy minister, Correctional Services	
Ken Sandhu, chair, Ontario Board of Parole	
Police Association of Ontario	P-79
David Griffin, administrator	
Terry Ryan, director	
John Howard Society	P-84
Graham Stewart, executive director	
Canadian Resource Centre for Victims of Crime	P-89
Steve Sullivan, executive director	

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Doyle, Ed (Wentworth East / -Est PC) for Mr Hastings

Boyd, Marion (London Centre / -Centre ND) for Ms Martel

Sergio, Mario (Yorkview L) for Mr Crozier

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

2A20N
XC21
-P72



P-7

P-7

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Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 1 February 1996

Journal des débats (Hansard)

Jeudi 1^{er} février 1996

**Standing committee on
public accounts**

Audit Act amendments

**Comité permanent des
comptes publics**

Amendements à la Loi sur
la vérification des comptes publics



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 1 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICSJeudi 1^{er} février 1996*The committee met at 1004 in room 151.*

AUDIT ACT AMENDMENTS

The Chair (Mr Dalton McGuinty): Good morning, committee members. The committee's now in session. This morning we're going to be dealing with a presentation by the Provincial Auditor on possible amendments to the Audit Act. Mr Peters, I'll turn it over to you.

Mr Erik Peters: Thank you, Chair. With me today are Ken Leishman, the assistant Provincial Auditor, and John Sciarra, who, among many other duties, is responsible for liaison with this committee.

I'd like to thank the committee for beginning a public consultation process on proposals to amend the Audit Act. The main purpose of my presentation today is to provide the committee with a background and the underlying principles that describe the primary intent and advantages of the amendments I will be proposing. In this way, I hope to provide the committee with the basic information on the subject of auditing certain grant recipients.

I deliberately mention "certain" grant recipients, because out of the almost \$40 billion spent annually in transfer payments, it is my view that only certain grant recipients should be subject to value-for-money audits by my office. For ease of presentation, let me refer to these as schedule A grant recipients and the others as schedule B grant recipients.

I believe you have the package before you, and the details of the schedules A and B are outlined in appendix 1. It may be worthwhile if you wouldn't mind having it sort of on the side, because it gives you an idea of what we're talking about. As you can see, on appendix 1 we've tried to provide a fairly clear breakdown of schedule As and schedule Bs.

Schedule A grant recipients meet the following two criteria: (1) They must be eligible to receive a grant, and (2) the government grants the funds with strings attached. Such strings may entail direct compliance with relevant legislation, spending the funds cost-effectively, and only for specified government program purposes.

The principal recipients of schedule A grants are in the so-called CHUMS sector. Others refer to it as the MUSH sector, but I prefer CHUMS, for some reason. CHUMS comprise colleges, hospitals, universities, municipalities and school boards. Most of these grant recipients operate within different but in most cases—and this is important—quite inadequate accountability frameworks with the fund-granting ministries. This is a very important feature with which I will deal later on.

I propose that schedule A grant recipients be subject to full-scope compliance and value-for-money audits by my

office. The amount of annual grants given to schedule A recipients is outlined in appendix 1, as I mentioned before, and the number we show there is approximate. It's \$25 billion a year.

The principal schedule B grant recipients are general welfare or family benefits allowance recipients, medical practitioners who receive OHIP payments, pharmacists paid under the drug benefit program. In a different class within schedule B are unconditional grants to municipalities. Schedule B grant recipients need not and indeed should not be audited by my office. The amounts paid to them are also shown in appendix 1, and you can see that they total about \$14 billion a year.

Perhaps some background on our past inspection audit activity would be helpful.

The current Audit Act came into effect in April 1978 and gave the Provincial Auditor the authority to conduct inspection audits of grant recipients. The granting of this authority effectively recognized the significance of grants in government finances.

Given the multiplicity of grant payments, it was not feasible, nor was it intended, that the Provincial Auditor undertake inspection audits on a broad scale. Instead, it was left to the discretion of the Provincial Auditor to determine an appropriate level of activity.

Initially, the Provincial Auditor conducted inspection audits only on an exception basis, for example where evidence obtained in ongoing ministry and agency audits indicated that such audits were advisable. However, consistent with the generally increasing emphasis on government accountability, between 1984 and 1991, the office expanded audit activity to include the major recipients of government grants.

Our work in this area included several audits in each of the community college, university, hospital and school board sectors. The results of these inspection audits were included in our annual reports to the Legislature.

1010

The university and hospital communities were sufficiently concerned about our planned inspection audits of their institutions that they obtained legal opinions. The legal opinions focused on whether there are any limitations on the authority of the Provincial Auditor to perform an inspection audit of a grant recipient.

The opinions concluded that there are two such limitations: First, an inspection audit should be limited to an audit of only the provincial grant payments received by the institution and not to other receipts, and second, it must be limited to an examination of the institution's accounting records. It is rather interesting that the legal opinion obtained by the university community excluded from accounting records the universities' internal audit

reports, which in effect rendered these inaccessible to the Provincial Auditor. As well, recommendations made to management by external auditors were also considered not to be accounting records and therefore could not be accessed by us.

We should remember in this context that virtually all these organizations have private sector firms of chartered accountants actually carrying out attest audits and giving them an opinion of whether their financial statements present fairly the state of their financial affairs and the operations of the organizations. In that context, firms of chartered accountants normally do issue management letters about where they can improve, and it is these management letters that were not accessible to us.

The legal opinion obtained by a hospital focused on whether medical records of the hospital could be considered accounting records and whether the hospital is required to disclose these records to the Provincial Auditor during the conduct of an inspection audit under subsection 13(1) of the Audit Act. Incidentally, for ease of reference, as appendix 3 you have the Audit Act attached, so later on when I refer to section 3 you might want to refer to those.

The second legal opinion was on whether the hospital is required to disclose financial records to the auditor regarding ancillary operations, for example parking lot fees and operations. The legal opinion concluded that medical records cannot be considered accounting records and therefore the hospital is not required to disclose these records to the auditor.

The opinion stated: "These records are for purposes of patient care and there is nothing in them of a financial nature. Although they may be used for statistical purposes, they are not relevant to an inspection audit"—remembering that "inspection audit" is again defined as strictly an audit of the accounting records. That's one we were not so keen on doing anyway, because it was being done by private sector CA firms, so what value would we be adding under the circumstances?

With respect to the confidentiality and disclosure of patient medical records, Tom Wright, the province's Information and Privacy Commissioner, has recently expressed some views on this subject, and I would suggest that the committee may want to hear directly from Mr Wright on this subject as one of the people it would like to hear from.

Regarding ancillary operations, the opinion concluded that "the hospital is not required to disclose financial records of its ancillary operations except to the extent that these operations are funded by grants from the consolidated revenue fund and the auditor's examination is indeed in relation to such grants."

One of the difficulties we have with this, and I deal later on with the commingling issue, is that once a dollar arrives in the system, it is very tough for the auditor to distinguish between a dollar that was given to the institution from a government grant or a dollar it received for a half-hour of parking. We'll deal with that later on.

Our inspection audits in the university and hospital communities were performed within the boundaries set by these legal opinions, which are based on the current wording of the Audit Act. I should point out that our

inspection audit activities in school boards were more full-scope in nature and were considered very useful by that community.

The legal opinions I've just referred to made it clear that the full scope of the Audit Act does not apply to inspection audits. Rather, as defined in the current Audit Act, inspection audits must be limited to audits of grant payments received by the organization and cannot be more than very limited financial and compliance audits. That again goes back to the definition of "inspection audit" in section 1, which says that an inspection audit is an audit of the accounting records of the organization.

The Office of the Provincial Auditor does not dispute the conclusions reached in the abovenoted legal opinions. On the other hand, this narrow interpretation appears to be inconsistent with the current public emphasis on accountability. From this office's perspective, there's an implied expectation that the funds provided to organizations will not only be spent for the intended purpose, which we assess in our compliance audits, but will also be spent prudently with regard to economy and efficiency, and that the organization has established adequate procedures for the measurement and reporting on the effectiveness of programs, which we assess in value-for-money audits.

Over the years, the public accounts committee has been very supportive of this office's views and concerns respecting the current scope limitations of inspection audits of grant recipients under the Audit Act.

The previous public accounts committee also explored the issue of Audit Act restrictions on the scope of an inspection audit of a proposed special assignment of special education grants to school boards under the authority of section 17 of the Audit Act, under which this committee by resolution can give special assignments to my office.

In this regard, a research paper prepared for the committee by the legislative research service discussed the following issues: whether the public accounts committee can direct the Provincial Auditor under sections 16 and 17 of the Audit Act to conduct a value-for-money audit of a school board; and the procedural implications of the Provincial Auditor conducting such an audit on the committee's direction; and lastly, the powers of the Ministry of Education and Training in relation to audits of school boards.

In considering the above issues, particularly the uncertainty of the intended scope of assignments under sections 16 and 17 of the Audit Act, I advised the committee that from our perspective amending the Audit Act would be necessary to carry out such value-for-money audits. This would also give the committee a clear power to direct us to perform inspection audits of grant recipients on a value-for-money basis.

The question was essentially whether you can give us an assignment and ask us to conduct a value-for-money audit while the Audit Act said for that particular organization we could only have access to the accounting records. In other words, would the power of a resolution on this office supersede the stated limitations in the Audit Act? We ultimately reached the conclusion that no, it

didn't, that this committee, just as my office does, would have to abide by the provisions of the act as they were stated.

Since 1990, the committee has been voicing its desire to give the Provincial Auditor the legislated access to information necessary to carry out full-scope compliance and value-for-money audits of schedule A organizations receiving government grants. From my office's perspective, the only way for the Provincial Auditor to assist the Legislative Assembly in this regard would be through appropriate amendments to the Audit Act. I'm essentially after the necessary legislative tools that will allow us to provide a valuable service to the Legislature.

Perhaps some recent history in context would be helpful to the committee.

When I was appointed as Provincial Auditor, effective January 1993, considerable work had already taken place on the subject of amendments to the Audit Act. In fact, the then government had committed to a public consultation process with the transfer payment sector, accounting bodies and other interested stakeholders on the subject of amendments to the Audit Act as proposed by my predecessor. The public accounts committee was to have played a leading role in the public consultation process.

However, after careful thought, I suggested in a February 1993 letter to the then chair of the public accounts committee that amendments to the Audit Act be deferred until a more appropriate and workable legislated accountability framework is established. My main concern was, and is today, that the absence of a workable legislated accountability framework for the management of resources and for performance cannot be overcome by more audit. In fact, the existence of such a legislative framework would make the proposed audits of schedule A grant recipients by my office significantly more effective.

1020

In this regard, in June 1993, the public accounts committee passed a motion giving me approval in principle to pursue with the central agencies the establishment of a workable—and I emphasize workable and I emphasize also legislated—accountability framework before any amendments are made to the Audit Act.

For the past two and a half years, I have pursued and advocated the establishment of a legislated accountability framework with the central agencies—Ministry of Finance and Management Board Secretariat—without success. Their preference is to pursue non-legislated ways to strengthen the accountability framework.

Under the Audit Act, it is one of my responsibilities to conduct value-for-money audits and to report on their results in my annual report to the assembly. It is the responsibility of management to actually ensure that value for money is obtained. Therefore, the current, very limited value-for-money mandate for management and the inadequate accountability framework for performance cannot be overcome by good auditing, which can only make recommendations to remedy weaknesses and deficiencies. This is why I strongly believe it is necessary to enhance governance and performance management in all government expenditures and activities by legislating appropriate management responsibilities and account-

ability frameworks for central agencies, ministries and schedule A grant recipients.

I believed then and continue to believe today that:

Obtaining value for money and performance management should be legislated everyday management responsibilities, rather than indirect requirements monitored through periodic audit examinations under the Audit Act.

The ability of the Legislature to hold various entities, including schedule A grant recipients, accountable, and the economy, efficiency and effectiveness of audit examinations conducted by my office, would be greatly enhanced if such a legislated accountability framework were put in place. This would be so because legislated responsibilities would require managers not only to set up accountability frameworks, but also where feasible to establish internal audit functions. Audits by the Provincial Auditor would then be more useful to the assembly, through the public accounts committee.

A number of features of accountability by ministries for transfer payments are provided by Management Board of Cabinet in the form of a directive. A directive does not have the same status as a legislated accountability framework.

At one of my first meetings before this committee, and I'm departing from my text for a moment, we had before us, I believe, the then vice-chair of the Workers' Compensation Board, and it had created a subsidiary without obtaining an order in council, which was required by management directive. The vice-chair's answer was, "I didn't know I had to get one." The chair of this committee turned around to me and said, "What do I do now?" I said, "There's no power, no authority for the committee to deal with that." If indeed this was only an administrative directive to obtain an order in council, there is nothing legislators can do in way of sanctions or critiquing or whatever. All they could say was, "We are astonished you didn't know," but that was it.

That's why a directive does not have the same status as a legislated accountability framework. However, features of the directive could be used to advantage to develop such a legislated accountability framework.

Subsection 13(1) of the Audit Act permits the Provincial Auditor to perform an inspection audit of a recipient of a grant from the consolidated revenue fund or an agency of the crown. However, section 1 of the current act, as I pointed out before, narrowly defines an inspection audit as "an examination of accounting records." This has scope-limiting financial and compliance audit connotations.

Many large schedule A grant recipients, and this is a very important point, receive funding from various public and private sources. For example, universities receive tuition fees as well as grants. These are commingled in the accounts of the grant recipient. Based on limitations imposed on our past inspection audits, we firmly believe the Provincial Auditors's right of access should be extended to all relevant records of grant recipients. For example, some of the universities argued that some of the programs they are following are not funded by the province and therefore we have to stay out of them.

Accordingly, consideration should be given to amending the relevant sections of the Audit Act to permit my

office to carry out full-scope, compliance and value-for-money audits of schedule A grant recipients. The actual drafting of the amendments would be done by legislative counsel in consultation with my office, and of course with you.

As well, the committee may wish to consider amending section 13 of the act so as to clarify that unconditional transfer payments to schedule B grant recipients, such as unconditional grants to municipalities, OHIP payments to doctors, or family benefits allowances to needy individuals, would not be subject to audit by the Provincial Auditor.

However, and this is a big however, the ministry programs and activities under which such payments are made are now and will continue to be subject to full scope audits by the Provincial Auditor. The ministry activities are largely in the area of determining eligibility—is this person eligible to receive a family benefits allowance?—and once they have determined eligibility, there's really no point, then, auditing the recipient to see whether they bought food or booze or whatever. It's none of the government's business and none of my office's business as a consequence.

Members of the assembly and of previous PACs have expressed the view that schedule A grant recipients who are given government funds to achieve a legislated purpose should be audited to assess if they have spent government funds for the intended purpose prudently and that they are measuring and reporting on the achievement of their legislated objectives.

Members of the assembly from all three parties have expressed their views on this issue as follows: In October 1992, in the publication *A Blueprint for Learning in Ontario*, the Ontario Progressive Conservative caucus stated—I brought it along; some of you may have seen it; it looks like this.

Mr Dominic Agostino (Hamilton East): Have you got the other book there?

Mr Peters: Do you want to see that?

The Ontario Progressive Conservative caucus stated, "As recommended by the standing committee on public accounts, the Provincial Auditor should be allowed to perform value-for-money audits of all," and there is emphasis on "all"—"government agencies and recipients of government funds."

In December 1992, the Honourable Floyd Laughren wrote to the then Chair of the public accounts committee, and I quote, "As I have stated in the past, I support any proposed amendments which will allow the Provincial Auditor's office to continue their important role in ensuring that value for money continues to be received for all government expenditures."

According to Hansard, in November 1995, Mr Joseph Cordiano, former Chair of the public accounts committee, stated in the assembly, "...the real heart of the matter lies with the quasi-public transfer partners, the recipients of those funds. I ask the minister, why hasn't his government moved to make the amendments necessary to the public Audit Act so the auditor could go in and audit some of these transfer payment recipients to determine some real savings?"

I'm not aware of any views of members of the assembly contrary to those which I have cited above. It is my intention to advocate only amendments to the Audit Act which in my view would benefit the assembly by making my office's service to it and to this committee more useful, more comprehensive and more effective.

Let me briefly share with you my thoughts about the cost of these amendments. As you know, the professional staff complement of my office is its most important and only true asset. As some wag told me, my assets go up and down in the elevator every evening and every morning. The funded staff complement of my office has shrunk from 115 staff in 1991 to 85 staff proposed by me to the Board of Internal Economy for 1996-97, an effective reduction of 26%. At the same time, government expenditures have increased by 21%, from \$46.5 billion in 1991 to \$56.2 billion in 1995.

Experience has taught us that value-for-money audits are very staff intensive and should be carried out only if they add value. The value-for-money audits of grant recipients, which would be conducted if the amendments to the Audit Act are passed, would be at the discretion of my office, and that's an important feature.

1030

I therefore propose to accommodate a very limited number of such audits of grant recipients each year, with a corresponding reduction of such audits of ministries and agencies. In other words, I would change the mix of value-for-money audits. This proposal is based on the assumption—and that's an important assumption—that my office's proposed staffing complement remains intact. I would only ask for increased resources if we believe the numbers of such audits are so low that the assembly, through this committee, was not being well served.

I would like to sum up my presentation by stressing that the proposed strengthening of the legislative audit regime over transfer payments may well serve to expedite, but should not replace—and I emphasize should not replace—the establishment of a workable legislated accountability framework. Amending the Audit Act to permit the Provincial Auditor to perform full-scope audits, including value-for-money, of grant recipients is the principal change my office is proposing. However, there may be some advisable and related administrative housekeeping changes to the Audit Act, which are listed in appendix 2 in your handout.

I would be pleased to elaborate on some specifics, if the committee so wishes, during the questions and discussion that will follow. Thank you very much for your patience and attention to this lengthy presentation. Mr Chair, I'm in the committee's hands and would be pleased to answer any questions and/or clarify any matters for the committee members.

The Chair: Thank you, Mr Peters. We'll begin questioning with Mr Carr.

Mr Gary Carr (Oakville South): As usual, you did a fine job of the presentation and informing us, and I appreciate that very much.

On page 2 you talk about the legal opinions, and I want to talk specifically about hospitals. As you know, as a result of Bill 26, the provincial government now can go in and supersede the powers of hospitals, the board and

so on. Was this legal opinion prior to Bill 26 passing? As you know, we have powers to go in now and say to hospitals, "You perform this service; you won't do that." I would assume that any value-for-money audits could be done as a result of those dramatic powers the provincial government has. When those legal opinions were done, I take it that was prior to Bill 26.

Mr Peters: Well prior. It was actually prior to me taking office. Ken, do you recall?

Mr Ken Leishman: It was 1990 or 1991.

Mr Peters: So well before, and second, in response to your question, that's why I'm recommending you hear from Tom Wright, the privacy commissioner, who has spoken on the issue as well.

Mr Carr: In light of the changes, of course the colleges and universities sectors would be different. They haven't been touched yet; I suspect they may too as well. I don't know. With the powers you see now in Bill 26, is it really necessary for us to make changes for the auditor to go in? In some respects I almost see it duplicating the efforts. If these powers are as strong, and they are, why in the hospital sector would we need to change the Audit Act to allow the auditor to go in and look when the ministry has stronger powers? They have more power not only to go in and look at it, but can go in and say: "Sorry, this floor of this hospital, these nurses, are gone. You're not providing these services." Why would we need to change it for the hospital sector, in view of the extraordinary powers the Ontario government now has?

Mr Peters: The powers under Bill 26, as I understand them, and that is a fairly limited understanding at this point, are really powers of access to medical records. The changes to the Audit Act that we're looking for are—in inspection audits, if we wanted to audit a hospital, we could look only at the accounting records right now by limitations imposed in the wording of the Audit Act. If the government wanted us to audit hospitals for value for money, we would need access to other acts.

Let me give you an example or explain a little. We would be interested in verifying the statistics a hospital uses, for example: How many operations did you carry out? What kind did you do? How many incidents do you have of bedsores?—which is an indicator of nursing care. We wouldn't be interested in the identity of the patient who had them, but we would like to take a look at whether the statistics they keep on this are valid, so we would have to look at some sort of record to check the validity of those statistics.

In the VFM area, these are some of the questions one would be asking as to what kind of statistics they keep: How many emergency cases do they treat? What's the capacity of the emergency room, and are they in excess or not? The only way to verify that is to find out the statistics on the caseload.

Mr Carr: What I'm getting at is that it seems this almost would be a duplication to change the Audit Act to allow you to do that. It's my understanding that with these powers now, the government can go in and do that. They can appoint a superintendent to run it if they want. They could go in and say, "Give us all your books," and pull them all out and look through them.

What I'm getting at is why we would need to change the Audit Act to have the auditor have powers that I believe the provincial government has now. I'm just asking the broad question, why would we need to change the Audit Act for hospitals to allow the auditor to go in when the government—it may be that you're saying it should be done through the auditor because you're more arm's length and non-political than the government and are trusted more than a lot of the governments, notwithstanding the politics. You may say you would have rather have that power to do it as an arm's-length agency.

What I'm getting at is that we're going to change the Audit Act to go in and take a look at hospitals and do value-for-money audits, which I think all parties agreed in the past was the right thing to do. But that was prior to Bill 26 when extraordinary powers came in for the government to go in and do these types of things that we would be asking you to do. I'm just wondering if we need to do it now. Why would the auditor need to go in and do a value-for-money audit of a hospital when the government can not only go in and do a value-for-money audit but can go in and do whatever it wants in hospitals now? Why would we need to duplicate the powers and change the Audit Act?

If in the broad sense we need to do it for colleges and universities, we may need to change the act to allow you to do it for colleges and universities. But specifically for hospitals, why would we need to do it now?

Mr Peters: Actually, for a wide variety of reasons. The first is that the changes brought in in Bill 26 essentially allow this discretionary power to the minister. The powers that are given to my office are given to my office as a legislative officer and therefore would be the power of the Legislative Assembly, essentially, to conduct these audits. That would be number one: There is not necessarily an accountability for the results of these activities of the minister to the Legislative Assembly.

Mr Carr: But we could do it as a committee.

Mr Peters: Your minister can do it, but the assembly as a whole cannot do it. That would be one reason.

The second is that the inspections you describe are really not value-for-money audits; they are specific inspection powers. Certainly the activity that would be conducted as a result of those provisions in Bill 26 would be taken into consideration by us if we were to conduct discretionary audits of hospitals. We would certainly not be duplicating any of the work. We would ensure that information gained in these examinations is made available to us in that. But the amendments to the Audit Act are really sought to give the Legislative Assembly, through this committee, the ability to assess whether hospital operations achieve value for money and whether they comply with the law.

Mr Carr: Actually, I'd like that, because I've always believed that as legislators we should have the power to be able to do that as well and we shouldn't just leave it to the minister. I say this more as somebody who sat in opposition. A government of the day can do whatever it wants, but through this committee, we can also, for want of a better word, get involved in taking a look at what governments do. I think those are powers that we as legislators need, because we're the ones who do get

elected and can get thrown out. I'm glad you clarified that. I couldn't see why.

Now, the difficulty you've got, knowing the politics of public accounts, is that the government still controls the public accounts. The opposition, who would in some respects like to have the powers to have you look at some of the hospitals in value-for-money audits—it's still controlled by the government because the committee is still controlled by it. But I certainly think the power should be in our hands, as duly elected people, to be able to say to you, "Yes, we'd like to do a value-for-money audit at a particular hospital because there's been a particular problem there." I suspect that notwithstanding some of the powers in Bill 26 we should still take a look at making these changes. Thank you. That was very helpful.

1040

Mr Bruce Crozier (Essex South): Thank you for your report, Mr Peters. I'm pleased that my colleague opposite has expressed the opinion that he feels the authority should be in the Legislature in areas where we no longer have it. I would welcome him to come and join our voice at any time he likes when we start to deal with the ramifications of Bill 26.

Mr Carr: I support the bill 100%.

Mr Crozier: Then your rump's on both sides of the fence.

Anyway, you've pointed out very clearly that you feel there are two areas, one where you should be able to do value-for-money audits, in the schedule A agencies, and that you also need some legislated support for this. You pointed out that over the past two and a half years you had pursued several ministries to support you in this and in fact made the comment that you pursued the legislated accountability framework without success, that their preference is to pursue non-legislated ways to strengthen the accountability framework. Would you be prepared to give us an opinion on why you think the ministries took that position and you didn't have the success you'd hoped for?

Mr Peters: The main argument that was advanced was that we were dealing essentially with penalties and sanctions. One of the concerns was what to do if the ministry breaks the accountability framework. Their view was that the current provisions allowed them to take budgetary sanctions against the ministry; if they, as a central agency, determined that a ministry had breached the accountability framework in some way, they could take some action. But there is no record of such action having actually been taken in recent times.

My difficulty with that argument, and why I consider my pursuit this far without success, is that I really would like to have the legislators put back into the driver's seat of being able to assess whether somebody has actually broken an accountability chain that they shouldn't have; whether they have not met responsibilities that the Legislature feels they should have.

Right now, to give you an extreme example, if a deputy minister had done something that the Legislature feels they shouldn't have done, technically the Legislature cannot point to any document that says, "You are accountable to us for that particular action." That may be a very

poor example, but I cited the case of somebody who said, "Yes, we formed a subsidiary and we didn't get an order in council." There were presumably administrative sanctions available, but there were no sanctions for the legislators, and I thought the legislators ought to be put back into the position of getting hold of these sorts of events.

Mr Crozier: I certainly agree with your position and would support it. Have you submitted draft legislation to be considered in those areas where you feel it needs to be strengthened or instituted?

Mr Peters: Yes. Specifically, the most explicit I've been—since 1993 I have more lamented the fact that we didn't succeed, but in my first annual report in 1993 I outlined the key features that I thought such legislative efforts should have. They are fairly lengthy; I'd be glad to provide them, but they may be too lengthy to report. But just to highlight a few of them for you, I said in this report the key features of a workable legislated accountability framework are as follows: establishment of management responsibilities for reporting performance, plans and budgets; establishment of management responsibilities to maintain proper books and records, financial management control information systems and management practices which provide reasonable assurance that the assets of the entity are safeguarded, that transactions comply with the legislation, regulations, bylaws and directives and financial, human and physical resources are managed economically and efficiently and operations are carried out effectively. That's just the beginning of this.

I'm not a lone voice in the wilderness on this one. I seem to be that a little bit in Ontario, but other governments have taken very significant action on this. The latest and probably very important one is actually the Government Accountability Act, passed in Alberta as part of the overall revamping of management over there. That is one recent one and that was used pretty well, in part anyway, as a blueprint by the Ontario Financial Review Commission when it made its recommendations in November of this year: effectively, that this government pursue the establishment of similar features. That was part of that, but prior to that there was the Citizen's Charter in the United Kingdom, which wanted to get the same sorts of management responsibilities enshrined in legislation; there's Bill S 20 in the United States. I think we cited it already at that stage. I think it was passed as legislation as the Government Performance and Results Act of 1993.

So we are really, in this recommendation, pretty well in line with what many governments are pursuing right now. Actually, some of the features also are directly stated in the Financial Administration Act of the federal government.

Mr Crozier: So it would be appropriate for this committee to consider those legislative changes and hopefully to support them then.

Mr Peters: That would be terrific.

Mr Gilles Pouliot (Lake Nipigon): Hansard will make for most interesting reading. I like to work with people who wear their heart so openly on their cuff. I'm not the least guarded. What the heck, that's what committees are all about.

Just take five minutes ago; you heard it repeatedly. The member opposite candidly, without caution, said under Bill 26 you can do whatever you wish. Five minutes before that, in your presentation you were talking about seeking consent to scrutinize under the halo of value for money, which does not give you the right under that umbrella to commit a multitude or any sin.

But as you get into transfer payment, and it was you, sir, who talked about, I think, medical records. I'll have to check Hansard. It's so foolproof and it records what has been said, and the imagination of members, depending on the time of day—they give it the proper tone and they can make a concoction out of it.

I'm concerned, because no, you cannot do whatever you wish. I don't wish to take my friends opposite out of context. This is a non-partisan committee.

Mr Mike Colle (Oakwood): Is it?

Mr Pouliot: Well, it is, yes.

Mr Agostino: Is it more than us?

Mr Pouliot: No. It's just as non-partisan as myself being the emperor of China, Mr Colle.

Mr Marcel Beaubien (Lambton): No comment.

Mr Pouliot: And you won't respond.

I'm concerned, you know. It's against the right of the collectivity, and I'm sure it's not intended that under value-for-money transfer payments, medical records of a person come and that we use this case. Whether the name is obliterated or not, I'm afraid of these things. The privacy commissioner has mentioned that every time, every opportunity that is given, any window, we should all be on guard.

I say that regardless of Bill 26, because we don't want anyone, we don't want the offices of government and your office, sir, to be embarrassed. Nor do we wish it, unless they say so, because they have more people than we have. There are more members of that first brigade than there are foot soldiers with the opposition.

1050

Mr Beaubien: We're front-liners.

Mr Pouliot: Yes, that's right. They fought bravely. I see that you lost nine according to the latest poll, but that's okay.

Mr Beaubien: That's just an aberration.

Mr Pouliot: I'm not the one saying this, because I try very hard not to be partisan, but I heard it said, Mr Auditor, that some administrations would not be opposed to using your good office to justify its slash-and-burn. When I see the transfer payments list, many of them are money transferred to the marginalized, to the less fortunate. Life is circumstance, those who cannot run as fast as the others, and sometimes it's very difficult, by a mandate, to see that those people, because of stickers, checkmarks for the sake of the books, for the sake of good accounting, are focused, because we will be watching very closely as to what—and I say this with respect. You're an independent body and the Legislature needs you. You're the best checkmark we have here.

But where will the focus be when we talk about transfer payments? Under the CHUMS scenario—I don't want this to turn into CHUMS. I have a long list of transfer payments that I would wish to be scrutinized. So I caution that it has to be aboveboard and I caution

further, with respect, that whenever we have individuals, regardless of Bill 26, that we don't lose the intent and the spirit of what we're doing, that people must be protected and know we cannot do anything we wish even if it's Bill 26. You only do what the people will tolerate your doing, regardless of legislation, more often than not. So just a word of caution. Maybe over the years I will learn to trust them more, but to this day it's very difficult, even if I'm my traditional benevolent self, sir. It is not an easy task sometimes.

Mr Peters: Let me comment on that in several ways: first, as I think I clearly outlined, it is important for this committee to hear from the privacy commissioner on this issue; secondly, it is a policy of my office not to deal with individual cases. As you know, we had the incident, where we talked about the drinking water, and we couldn't even name the plants. The ministry had to name the plants that had the difficulty with that.

The other point is also, let it be very clear, that nobody in my office is and nobody pretends to be competent to re-examine a medical case or anything like that. The entire intent of potentially taking a look at medical records is merely to assess the validity of statistics that are used—for example, how many cases do we have, this sort of thing. Also, what we are seeking here is not to extend the powers of auditing. What we are extending here is really the access to records of grant recipients who, after all, are receiving something like \$25 billion out of the \$56 billion. What we're trying to establish is some sort of check for the Legislature, to say, "How well are we spending that vast percentage of our money?"

So I certainly can give this committee every assurance that the reason we would like this is to improve financial management and control and the management of resources by the Legislature, and there's no other hidden agenda; there's nothing there.

Mr Pouliot: I thank you. I just wanted it to be a matter of record. Now I understand. This is exactly in that context that Mr Carr made his remark and it does coincide with yours, and I thank you. So Hansard will not be as interesting to read tomorrow as I thought it could have been.

Mr John Hastings (Etobicoke-Rexdale): Mr Peters, I'd like to congratulate you on a very thoughtful and insightful presentation of this stuff, because it's hard for some of us to get our brains wrapped around the intricacies, let alone the concepts.

One of the things I'd like to ask you about—you've made reference to it; I don't think it's in your written remarks—is the post-secondary sector and the hospital sector, wherein the foundations in both cases received funds for specific programs from donors. You seem to indicate to me that in trying to get a legislated accountability framework, you would want to have the capacity or the authority to audit the moneys provided in those programs where donors are making significant contributions. For example, the Ontario Cancer Foundation or Wellesley received \$2 million—I don't know if it was Wellesley. A gentleman the other day donated \$2 million for a specific program.

Mr Colle: St Michael's Hospital.

Mr Hastings: St Michael's? The Ivey family at the University of Western Ontario over the years have made enormous contributions to the operations of Western; Trent has been the recipient, and the list goes on. I would like to know what your thinking is as to how you would manage this issue of where donors provide specific contributions for specific programs which still have sort of a funding equivalent, I guess, in dollar terms, from the Ontario government.

Do you see that there would be a necessity to audit those parts of a program which are derived singularly or commingled with the moneys from each ministry, whatever the case may be? Because I see you already have the authority in section 10 of the Audit Act that all books, financial records, reports, ministry agents, all property—do you think there's a privacy issue there? That would be my second question in terms of this issue where there is a commingling. Or do you see that the donors, giving significantly or not so significantly—all contributions from private donors—should be separated out for whatever their intent is, unless it's specifically designated that the moneys go into the general operations of an institution, whether it be a university, community college or a hospital?

Mr Peters: The answer may be slightly on the long side, so bear with me on this. You have touched on a number of very important issues in your question and I think I need to deal with these very important features that you have brought forward.

The first one: Let me deal very quickly with foundations, particularly in the university setting. There is an act, actually, on the books of the province under which the foundations ought to be audited, and that act specifically provides also for inspection rights by my office.

1100

But that lets me get into the second area. Foundations can be looked at by my office, but the current limitations are strictly that we can do only an audit of the accounting records. Many of the donors, for example, make donations for specific purposes. We call those restricted assets. In other words, they may donate the funds for the palliative care unit of a hospital or they may say, "We want it to be used for cancer research," and whatever. But under the current limitations of the act, we cannot even verify if the hospital has used those only for that purpose. The accounting records may very well show that they say it has been done, but we would like to have access to the records that prove that in fact it has happened. In fact, it would be partially done to even help the donors in this particular respect.

The other part is that with the province having such a significant stake in many of these organizations—we're looking at the hospital community, for example. I don't know what the exact percentage is, but well over 90% of hospital funding is derived from the province. Legislators have been very concerned that hospitals actually had recorded deficits against their government funding, and in the meantime we're building up foundation assets to a great extent. There has been a question raised as to what the right of the province is. Could the province, for example, take the view that the province could reduce its funding if there were a lot of assets and income derived

by a hospital from a foundation? Those kinds of questions we, under the current setting, cannot address at all.

So in the setting that you describe, I believe that being such a significant funder of these organizations—and I'm not talking about organizations which receive the occasional piece of money from the province. Really we are going to have to be very judicious not only because our resources are limited, but also your intent may be limited of not looking at an organization that maybe receives even as much as 40% of its funding from the government. Maybe we have to agree on a cutoff somewhere where we want to look more. But the point is that the current accountability to the Legislature is really very limited, to a major funder.

I had an incident where, for example, I met with a number of members of the faculty and the administration of a university, and I stressed to them that I was going to drive for accountability to the Legislature for organizations which are substantially funded. He was very outspoken. He called me names and things that I don't want to particularly put on Hansard when I brought forward this point, but the kindest word that he had was that he thought this was an entirely self-serving presentation by me to enhance the powers of my office.

I had the statistics with me and I said, "What you are really saying to me is that you, as an institution which receives 82% of your funding from the province, do not wish to be accountable how you spend that money." There was icy silence in the room. That's really what I'm after. What I'm after is on your behalf to institute some sort of accountability to you for the significant funds that you're spending.

Mr Hastings: Let me put it this way, then. With the private sector probably going to be relied on to a greater extent for many programs and operations in these public institutions, or there will be more public-private partnerships evolve over time, the point you raise about whether a foundation of a hospital or a university, if it had \$100 million or whatever more than what it had reported in terms of a deficit from its transfers, from its grants, do you see any concern or do you think my concern is somewhat trivial in terms of whether the future trend will hold, that there will be an increasingly significant reliance on the private sector, whether you call that non-profit or private individuals or corporations contributing to various types of public institutions today? In terms of getting your value-for-money audit that you want for the broader area of public moneys, do you think it would be a deterrent, I guess would be the way I'd phrase it, to increased contributions?

Mr Peters: Quite frankly, I don't think so. Let me give you two very specific reasons and examples where we already have acted on this.

The previous government introduced something called the Capital Investment Plan Act, under which it created four capital investment corporations, and very large ones; they were substantial. The Ontario Realty Corp, the Ontario Transportation Capital Corp, the Ontario Clean Water Agency and the Ontario Financing Authority were the four key ones that were created. At that time, my office was approached as to whether we wanted to be the auditors of these particular organizations. I said yes, from

the point of view that essentially these corporations were going to carry out activities that were carved out, really, of the consolidated revenue fund, which is part of the legislative accountability, and that is part of my audit domain. Therefore, on behalf of the Legislature I should retain that right.

However, it was actually I who suggested to the government of the day that "If one of the intents of creating these organizations is to encourage public-private sector partnerships, I would like to specifically amend the audit provision." I appeared before the standing committee on general government for that very purpose, to permit in those partnership situations for the partner to actually be able to appoint their own auditors to look into the transaction; in other words, to enhance the ability of these partnerships. Because very often a partner who comes in says, gee, you know, "They are all one and the same." The separation, the independence of my office, is often not clearly understood.

So I would say I see absolutely no obstacle to making provisions, where we get into the private sector partnership, that this be permitted; in other words, that the private sector partner can bring their own auditors into the picture if they wanted to. Or to another extent, and this in fact may encourage private sector partnership, if my office were to conduct value-for-money audits—let me put one thing to you. Value-for-money audits are not cheap. They are the most expensive kind of auditing that you can conduct. That's why I was so very conscious of it and in my presentation repeatedly said that we would only conduct those audits if we feel they add value. The private sector partner will most likely look favourably upon a situation where the government, as part of its partnerships, provides that kind of audit of the organization at no charge to the organization being audited.

Mr Hastings: Let me ask you on another, more significant issue about your proposals to amend the Audit Act in terms of getting this legislative accountability framework and the value-for-money concept included in not only the transfer partner agencies but also the direct ministries themselves.

I don't see any attempt or reference in your remarks, even if you had these added tools, approaches to getting greater accountability for each public dollar spent, to a penalty or a sanction placed on the agency that you're undertaking a value-for-money audit on in the first place. If you find agency or ministry B has overspent its budget in grants for municipalities, as an example, by half a billion dollars, what kinds of tools would you require, or what is your thinking? That's the end of the value-for-money audit that you've done. You report to this committee and to the minister of that respective ministry about what occurred in that hypothetical scenario. But where is there any sanction or penalty for the public servants or the people who were directly responsible for the expenditures of those funds? I don't see any.

1110

How do you enforce making your value-for-money audit have real teeth in it, or is it just a comment that you have in your annual report that a certain minister or ministry did certain things and they still continue to do them? I've seen it in practically all levels of government,

that you report on an activity and two years later the same people are doing the same thing, or they've changed it a little bit; the amount of money may be reduced significantly, but the practice is still in effect.

Mr Peters: Well, you're striking very much at the heart of the matter of many of these. Firstly, I'm very glad that you didn't notice any penalty or sanctions in my proposal. I'm absolutely delighted, because there weren't any built in and there are none proposed.

What we're saying is that that is really up to you as the legislators. I report to you the incident. I will report to you also, state to you, what recommendations I can make to remedy the situation. I will also state to you and report—that's the new format of the report—what commitment the ministry or the offender or the person who didn't do something right is undertaking to fix it. But as to what the reaction is to it, and this is the very point, at the current point you have virtually nothing you can do about it as legislators. To me, it's far more important what you are going to do about it than what I can do about it. I am a reporter of this to you for action, but as long as this framework is not legislated, there's nothing you can do either. That is the problem. That's why we are pursuing a legislative framework, so that you can take action.

Let me get into the second point of this. Under my act—and that is a very ironclad law that I operate under explicitly and implicitly, and every member of my staff works under—we do not second-guess government policy. If the overspending occurred as a result of a policy decision by the government, it is none of my business. So there are more aspects to this.

There's a third aspect to it if you are dealing with a direct overspending of a budget. That requires a citation in my annual report of that particular entity that did so. Sometimes that gets anecdotally very embarrassing. I remember with one ministry we had agonies, because out of a quarter-billion-dollar budget, they had overspent by \$600. Should we cite them? We had agonies whether we should haul before a deputy for \$600 out of a quarter-billion-dollar budget. It sometimes worries me how precise things get. And we didn't. You even had that budget example where you said, it's funny, somebody spends \$500 million over budget; that's what I'm reacting to.

But in answer to your question, the entire intent of a legislated accountability framework is to permit the assembly—and I'm an officer of the assembly—to take action. I cannot and should not take any action on this other than bringing it to the attention of the assembly, which is my client. I hope that answers your question.

Mr Hastings: I was just going to say that maybe it's a little bizarre that you want to have a more activist role in terms of getting value for money, but your office is limited, I assume from your remarks, by not having an activist follow-through; that's the legislators' role. I'm just wondering, if you're on a very fine line on the value for money, which I believe in, but it's for us to follow through in terms of sanctions or penalties, you don't even recommend a certain concept of it for us to follow through. It's up to us to propose that, I take it?

Mr Peters: Certainly the deputies can follow through, and I'm reporting to those. The point I'm really making, and I don't want to be too long about it, is that this accountability framework I advocate would make it the responsibility of the management to obtain value for money. I can only report on incidents where they don't; that is my role. This is the very crux of your comments: What good does it do you or me if I can point out—occasionally, every five years, I go in and say they didn't get value for money. But in the meantime, every day, somebody has to be responsible in government to ensure that value for money is obtained for the funds spent. That is what I want to establish in that framework.

Let me give you a very specific anecdote. In the very beginning of my audit we talked about elevator inspections. We found in our audit of those that the staff was working on a cycle that every two years they had to inspect elevators. When we reported before this committee that they were not inspecting elevators the way they should, the management of the ministry informed this committee that we had invented that standard, that there was no standard established that they had to inspect elevators in the two-year cycle. All of a sudden, we were all helpless. What could we do now? They accused me of having set the standard. Here we had a value-for-money issue, and how do we get it fixed? The only tool I have now, in addition to whatever you have to do—your tool—is that I've said, "Okay, if they haven't fixed it in two years, I report it again," and that's what I'm doing and that's about all I can do.

Mr Agostino: I think Mr Hastings made some good points in regard to the lack of teeth, that we will go through a certain process and that's as far as we can go and the auditor can go. But we also have a situation where the political and the public arena often becomes the scrutiny and becomes the pressure point for those changes to occur if an auditor comes forward and reports a certain operation or a certain waste of money in a ministry or in a department.

In the past, everyone in opposition has certainly jumped all over that, regardless of the party, and has very clearly hammered away at the government of the day in regard to those deficiencies. I well remember our friends with the two books kind of thing and how that whole thing played out, the perception that the auditor would not sign the books. I know, as one of the opposition, we kept repeating that. I'm not suggesting that's the way it was, but in opposition that's pretty well—whatever the circumstance may be, the political and public process around the report of the auditor often is enough of a sanction that it gets the ball rolling to make the necessary changes. The opposition will normally keep plugging away at that and keep ensuring that the public continues to be aware of that mismanagement or breakdown in a government operation.

In regard to what's been proposed, I welcome very much the changes Mr Peters has suggested. Very clearly, having spent seven years as a legislator at the municipal level, where the transfer of provincial funds was a significant part of our funding, I understand the need for accountability. It's important for every major transfer agency of government to be accountable for the money

they're receiving and to ensure that checks and balances are in place. Often these type of audits will lead to savings being identified, will lead to different ways of carrying out a certain operation that will save the taxpayers dollars, and that's important, particularly when it comes to hospitals.

That's one area I've always had a bit of a problem with, because for an institution and a body that receives so much provincial funding, there's so little accountability. Unfortunately, hospitals have operated in this province very much as private institutions. Often the public and the auditors at the provincial level, which is the level that funds the hospitals, have not had a great deal of access to the operations of those hospitals and how those hospitals are spending their money. That's long overdue, and if nothing else, it will ensure greater public awareness of the accountability. I think that's extremely important.

1120

It's the same thing with school boards and municipalities. I would have no problem whatsoever. I hope those transfer partners also realize that it is the reality and the need today, that if you're going to depend on government for such a significant amount of your budget, there's also going to have to be some accountability and some scrutiny to ensure that the money's being spent for the things it has been given for.

I suggest that funding partners that have a problem with that would only have something to hide; otherwise, they should welcome with open arms this type of approach by the auditor. It's not going in and telling them how to run their business; it's not going in and telling them how to run a hospital or how to run a municipality. It's going in and saying: "You're getting X dollars to carry these programs out. We want to ensure that we have checks and balances within our own system to make sure that money has been spent on what it has been allocated for."

My concern was a little bit along the line of what my colleague mentioned in regard to what sort of direction is given to the auditor. It's been made very clear that these types of audits and inspections would be at the discretion of the Provincial Auditor and his office and, regardless of the party in power now or 10 years from now, free of political interference, and that's very important.

Mr Peters has done a great job, from what I have seen in my time here and from what I followed before I got to Queen's Park, of keeping that independence, often at great criticism to himself as a result. He has done an outstanding job of ensuring that it is at arm's length, is non-political and is away from the political process, which I think is exactly the role of a Provincial Auditor as a watchdog. I commend him for that. What has been suggested here today will lead to greater public accountability, and I think that's good for all of us.

Mr Pouliot: I'm not going to respond to how many sets of books and so on, but I will comment that when you go and visit some of the transfer recipients, ie, hospitals, how many sets you'll be able to find.

Ministers are a touchy lot. When they read your report, it is a dreaded document. It's mentioned in Evita that figures get in the way and accountants slow things down

and the money keeps rolling in etc etc. They don't like to be cited; it is quite embarrassing. When you have the compliance, you find that many of the answers from the ministries are generic. Some would say it goes as far as being verbiage. It really doesn't mean a lot; it's a bed-time story at best. It can mean anything. "Mea culpa. We've listened to you and we're working at rectifying the problem."

When taken to task, when checked again for the monitoring of compliance, you find that the player has changed its mask. It's tales of Houdini. You see the same habit, the same sloppiness sometimes, and sometimes you don't see it. You're not going to ask a minister to resign, although why not? It seemed like not such a good idea at the time, but now, thinking about it, if it's to assure compliance—but suffice it that people don't wish to see the lack of compliance.

It's very embarrassing for a government, for ministers of the crown, to have the Provincial Auditor cite them, note them, that they're not doing the proper job with the public purse; they're fully accountable, but that they're not as meticulous. People take a great deal of pride, and they will call the ministry and say: "Look, I do not wish to see the likes of Erik Peters under any of the same circumstances. Save me. That's your job."

The worst embarrassment is to be laughed at. Not only are the books sloppy, but if it is unveiled that some cute tricks have occurred—for instance, that the minister would use the government car, the people's car with the chauffeur, to go shopping or to a tanning salon while the car was running and the chauffeur was on duty—that is very, very embarrassing. It's laughable.

Ministers don't like this. They have their own monitoring of compliance, because they don't want to see the Provincial Auditor. You have a lot of clout. I'm not so concerned about the monitoring of compliance. It's built into the system that when the Provincial Auditor comes calling, beware, and if you're found to be in default, you correct it. Over the years, you see of course some of the old tricks, if you wish, they remain the same; it's difficult to change the system. But people are fearful.

You're scoring many points and the taxpayers have a lot to be thankful for, because they know they can rely on a non-political entity whose integrity, interest, dedication can never be questioned, a true professional: the Office of the Provincial Auditor.

I won't say any more, but I think you have a built-in guideline. You have a lot of clout by virtue of the Office of the Provincial Auditor, so I'm not too, too concerned about compliance. Once they are noted, the opposition will do their job also. They're good at imputing motives; they have ulterior motives as well. *Pas de problème.*

Mr Carr: I wanted to talk about your limited resources. What we're attempting to do is expand some of the powers. You mentioned you now have 85 staff, a reduction of 26%, but you're looking at government expenditures which have gone up 21% in four years. On page 7: In 1991 we were at \$46.5 billion, to \$56.2 billion, so essentially it's up 21% in four years. You look at that statistic and anyone would say, in 1995 are our services better than they were in 1991? Most people would say they aren't, yet we had a 21% increase in

Ontario government spending in four years. Ironically, that \$10 billion would be the deficit.

We're asking you to do more with less. You're at 85 staff and you were at 115 before that. Most people would say that with that \$56 billion, up 21% in four years, and with the limited resources, we maybe should have the auditor concentrate just on the Ontario government operations. As you know, in the \$56 billion you'll get a chance to get around to many departments in that area.

Should we be expanding and looking at going into our transfer partners at a time when most people are saying the Ontario government probably can do a better job—this isn't a fault; it's the numbers—if you could do more departments and so on? Should we be going into the transfer partners, into hospitals and colleges and universities, when we've had a 21% increase in spending in four years in this province? A lot of people in the public would say the auditor should spend more time with the Ontario government looking at all the problems that can be related in the Ontario government. Do you think we should be expanding to our transfer partners at a time of limited resources when we probably cannot do a very good job of even taking a look at our own auditing in the province of Ontario?

1130

Mr Peters: That's an interesting question. But remember that the payments to those transfer partners have increased proportionately. In those \$46 billion versus \$56 billion, the ratio paid to transfer partners has remained the same. The responsibility of the Legislative Assembly to administer these programs—remember that all of these payments are made under government programs that should be accountable to the Legislative Assembly. What we're really saying is, if you want to achieve effective spending reductions, why would one want to leave out of the scope of seeing whether there's value for money achieved something as high as very close to 50% of the spending of the government?

On individuals, the government has gone and reduced the payments to individuals, which we're not saying are subject to audit, but stepping back for a moment, I really think that in order to achieve substantive savings, substantive improvement in the spending pattern of this province, the legislators should be able to sit back and have the assurance of a whole government program, of being able to say: "Look, this program is doing exactly what we want it to do. We're spending the right amount of money on it, so it does what we want it to do. Let's leave it alone. This program we're spending a lot of money on, but there are a lot of changes that have to be made to make it more efficient, more effective, more economical." But what tools do you have to assess that? If we don't do it, how do you find out on these transfer payment recipients? I think that is a good question that legislators really should ask themselves.

There's a third question: Is the program so poorly done or are the objectives so unclear as to what we want to achieve with this program that maybe we should stop it altogether, just can it? In order to help with that sort of decision, I think value-for-money audits, the kind of reports I'm putting out are really an invaluable aid to the legislators. I think from that perspective, to literally say,

"Let's exclude from scrutiny \$25 billion a year that we are spending in this particular area"—I would have difficulties with that. I would have difficulties in my own mind justifying it. I would have difficulties towards my own responsibility if I didn't ask, as Provincial Auditor, that you take a closer look at these kinds of expenditures in order to see whether savings can be achieved by the government in that area.

Mr Carr: I agree, because I think what it does is it comes down to priorities. Just so you know how effective you have been, non-profit housing, which was looked at—and I don't use this word lightly—was an absolute disgrace. You did take and persuade governments, because it was started under the previous Liberal government and then continued under the NDP, and when we took a look at it even the Liberals, in the last election, agreed that non-profit housing shouldn't continue. So in fact by some of your actions I think you do persuade not only the public but political parties that some of the actions of the government are poor.

I guess what you're saying—and I would ask if you agree with me—is that it's really a case of looking at the priorities. That's what you'd like to do—have the ability to look at the priorities. They may be the transfers to hospitals, they may be non-profit housing, they may be the Ministry of Community and Social Services, but we as legislators should have the legislation to allow you to look at the priority areas, to the best of your ability. Is that really what you're asking?

Mr Peters: That's what I'm saying. Let me just single out two areas, and they both are in the Ministry of Education. The school boards actually receive their funds in order to implement and comply with the Education Act of the province. That is a provincial statute. Why would we as a province want to stop, by saying, "Look, we don't really care how you comply with the Education Act, but here's the money anyway and we'll give you \$4.5 billion"? In the same ministry, we have actually the opposite happening with the universities. We have actually no legislation in place that deals with the university system, if you will, because all our 17 universities are established under separate pieces of legislation. That's why I'm again looking for this accountability framework. How do we hold them accountable? We're paying them \$1.8 billion a year. Do we have this assurance?

You related, in your opening remarks, to my budget. Let me make a very quick statement to you about that. In terms of dollars spent on my office in relation to government expenditures, Ontario spends on public auditing right now—and, as you noticed, I have not asked for more money. What I've actually asked is, "Leave it intact," and what, "Leave it intact," means is that I'm offering essentially a 16% reduction of the dollars for my base budget, or 9% for my approved budget. So I'm offering a reduction anyway.

To put this into context with what other provinces in Canada are doing, and the federal government, in Ontario we're spending currently about 13 cents out of every \$1,000 on my office. The nearest province is triple that—New Brunswick, at 36 cents. Other offices: Alberta, for example, after the cuts that Ralph Klein imposed, is spending 80 cents per \$1,000 after the cuts. So they're

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Our responsibilities do differ. Alberta does a lot of more attest audits than we do, so one cannot say that we are necessarily more efficient. But as an overall government expenditure, my office is spending very little. Quite frankly, it is worrisome to me that we are looking at this amendment to the Audit Act, but at the same time I must inform you, as I did, that I will be able to conduct only a very limited number of those audits with my current resources.

Mr Carr: And what you want is to be able to pick the priorities and be able to have the legislation to do that.

Mr Peters: Exactly.

Mr Colle: I think the one recommendation or approach in the presentation made that is being missed is that what you're asking for is the legislated framework to be incorporated; in other words, that this accountability framework be incorporated in all government departments. That is what is missing. In other words, we're not asking the auditor necessarily to intervene in every situation, but if there's a management accountability framework incorporated in the way government operates, it's going to void the need, basically, for you to do these spot audits. I think that's where the cost-effectiveness is and I think that's what you're asking for in the legislation. Am I not correct?

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Mr Peters: I'm afraid that's not what I'm asking for. The concern why we linked the Audit Act with the accountability framework is, if management is not charged with the responsibility, then to send in the auditor to audit something that they are not officially legislated to do, or mandated to do, the audit may not be as effective as it could be because we would audit into a vacuum and they would say that we impose an accountability on them that they don't have under the current legislation. The way I view it is that the spot checks would be a lot easier and a lot more cost-effective if such a framework were in place, but they're still necessary.

Mr Colle: That's what I'm asking you. Aren't you asking for the legislation to be amended so that this framework will be incorporated in every department?

Mr Peters: Later on, yes.

Mr Colle: Because right now it's not there.

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Mr Colle: So therefore they can say, "We didn't know what the benchmarks were, we didn't know that this is what our responsibilities were, because there were no guidelines," that they're basically just general administrative directives right now that are very, I guess you might say, vague at best. So you're asking for these accountability frameworks to be incorporated in the legislative changes.

Mr Peters: Not in the changes in the Audit Act. What vehicle to actually use to impose, to develop a workable legislative accountability framework is still up for grabs

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Mr Colle: The second quick question I have is with Bill 26 and some of the changes we've seen. We've seen a move towards block funding, where some of the grant recipients are now basically going to fall into maybe category B where there aren't going to be conditions to their government grants. How do you see this possibly changing your ability to perhaps monitor these block grants that are given, for instance, to municipalities?

Mr Peters: That's a very interesting thought. In fact, that is a good question to pose for this committee and it's one we have actively to consider. The word that I am getting at the moment is that in the block funding, one way of approaching it, or one way that is being considered, is indeed to give unconditional grants and impose as the only condition that the Provincial Auditor can go in and audit on the value-for-money basis. That is one particular possibility I've heard of being pursued. Now, if that were the possibility—in other words, to build the right to audit into the grant—then I have, again, the problem that my act would permit me only to look at the accounting records but not at anything else under the current—so there would be a problem there, if this were a solution.

The other point, if this were the solution of block funding, is that the audit right this far I can manage because I can control it to a certain extent, because these audits would be conducted at my discretion. If this is being built into every fund, then literally I would really have a resource problem because it may very well result in my office having to audit virtually every one of those block grants, and I just don't have the people, with 85, to audit \$25 billion worth of grants made on that basis, so I'd lose the grant.

The other one is quite frankly, relating it back to your first question, if we have no proper accountability framework in place and we now give a grant and we're saying, "No conditions, this is how you can spend it," and the only condition we were to impose is that the Provincial Auditor can go in to do it, then I would say we have a real problem, because, number one, we don't have a proper accountability framework and, number two, we're spending an awful lot of money without control by the Legislature. It effectively puts my office at the disposal of individual ministers of the current government as opposed to putting the services of my office at the disposal of the Legislative Assembly, which is the intent of my office. In other words, I would say that there are

earmarks in that block funding that could impair, actually, the independence and objectivity of my office.

If, on the other hand, these funds are entirely unconditional, in other words, the government says from now on, "If we deem you eligible, you're a municipality and because you're a municipality you're eligible to receive X billions of dollars," at that point I really raise another question with you as legislators, and that is, to what extent do you feel that those funds are spent with proper accountability to the Legislature itself? What controls do you have after? Like, this is the case where we don't even have my office looking at it.

I'm very concerned about this. I think once block funding is considered, there really has to be a good accountability framework of some sort in place. Those things go hand in hand. So a good accountability framework would accomplish really the two things: better accountability to the Legislative Assembly and it would certainly make my work easier as auditor.

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there are also a number of mechanisms that look at value for money in the operation of programs internally, including in part the estimates process, which is again reviewed by the Legislature.

There are a number of processes that need to be sorted out and examined in this. That was, as I say, part of what the Financial Review Commission was helping us to look at. We're still, as I say, assessing their recommendations.

Kathy, perhaps you might want to add something on the Management Board accountability side of the matter.

Ms Bouey: Sure. I think another aspect of the legislative accountability issue is that, as Bob has mentioned, Mr Eves's economic statement has set out some quite large cuts in transfer payments. As a result, I think it's going to be pretty clear that the transfer payment universe that we have right now may look quite a bit different in a couple of years, or three or four years' time.

As we work through that, decisions have to be made about the appropriate kinds of conditions. As Bob has pointed out, we're looking up front at the mandate for programs, the kinds of conditions that are put on their funding, the eligibility, and then the accountability at the agency or local government or organization level.

The difficulty in trying to set something in stone right now is that, until we have sorted through some of these issues, it is hard to know exactly where to go in a way that will really hold. I think the thing that's really important, and I think we're in complete agreement with the auditor, is that the accountability framework has to be strengthened.

We are looking now at the recommendations of the Financial Review Commission. We are working with the other ministries in terms of how we can have a better planning process, how we can measure more in terms of outcomes, focus more of the efforts in terms of making program decisions on the kind of outcomes that are there and the management tools that are needed in terms of making sure that people achieve those outcomes.

As one works through that, for example, Mr Wood, the MPP, is heading a government task force on agencies, boards and commissions that has been established to review the mandates of agencies and recommend elimination of those whose work is completed or which is no longer needed. It will also recommend measures to improve value for money in the agency sector.

As these levels of funding change, our relationships with our transfer partners are also changing. We are looking at the issues of overlapping accountabilities. For example, if we give money to another level of government or an organization for a particular program, we both have some degree of accountability in that. We want the agencies and organizations that are actually distributing the money to be prudent with the public funds as a condition of their continued support.

The merit of having, for example, the Provincial Auditor go in and look at how that money is spent is an important option to look at. I think we also need to think about what needs to be done in terms of making sure that the agency or board owns its own problems in terms of the role of external auditors at that level, and what kinds of results they're expected to report.

Other levels of government have their own accountability relationships with taxpayers and the province will

recognize this in setting its future funding arrangements. As Bob has already noted, the government has begun to deconditionalize some of its grants in doing that.

The other aspect we'll have to be looking at is the capacity of recipient organizations and governments to deliver service efficiently and to minimize the secondary overhead associated with the transfer payments. If we have too many providers with limited delivery capacity, then we have inefficiency. Discussions are already happening in some sectors as to how to readjust.

I think, as we work through this, first of all we need to look at the overall accountability framework—What is the legislation? What is done internally?—recognizing that we are in a stage of quite important and large transition, and to try and look at where we will be in terms of the kind of accountability that should be there on an ongoing basis rather than what looks to be there right now.

I'll open it up for questions.

1420

The Vice-Chair: Before you continue, Mr Peters would like to clarify something in terms of what Mr Christie mentioned.

Mr Peters: Just some additional comments. In its work the Ontario Financial Review Commission took essentially a leaf out of something called the Government Accountability Act, which I mentioned this morning, which had been passed by the Alberta Legislature, and one of the requests—certainly if you wish to do so, we will gladly provide you with a copy of that for reference that was being done, if that is helpful in this regard.

The second comment I'd like to make is that the Ontario Financial Review Commission was essentially mandated under its order in council to report to the Minister of Finance and has gone indeed a very long way in establishing a performance-based accountability framework. As you noticed this morning, the word "performance" was repeated in my presentation to you about three or four times as one of the things that is of great importance to us as to what performance is achieved with this money.

In retrospect, and actually for the present too, we were discussing at the Ontario Financial Review Commission at great length—I brought up the matter of an accountability framework with the commission itself and the commission itself found that within their mandate they could not push this argument further than they had as they were. I agree with them whereby if the government were to implement the recommendations that they had indeed made, we would be a far way along. I ventured a number, which is always a dangerous thing, but I said around 80% there.

What I nevertheless have to do, as the legislative auditor and as an officer of the assembly and as servant particularly to this committee and adviser to this committee, is to continue to advocate that you as members of Parliament have some accountability to you which is separate from the administrative accountability that is being established between the central agencies and the ministries and which is different from the accountability that is achieved to a minister and through the minister to the assembly.

This is really the other mechanism that we're talking about and this is why the key word that we're working with is, I think all of us agree, "workable." There's no doubt about that, but there is a definite debate about "legislated." I just want to bring out the point that the word "legislated" is really brought in to give the members of Parliament a tool in addition to all the tools that the administration might set up.

There's one last comment, if I may, and that is one of the points brought in is the question of the overhead costs of administering it. We nevertheless in all of this have to remember that even if the amount of funding—assume for argument's sake that the amount of funding is cut by 20%. We would still talk about \$20 billion of taxpayers' money flowing into these organizations, and we have to ask ourselves the question, "With that kind of money what kind of accountability and what kind of mechanism would we like to have in place to manage that sort of funding?" That's it.

Mr Pouliot: Mr Peters, with respect, you weren't gazing in a crystal ball when you mentioned 20%. We fear that it will be—if you have an attitude which is based on a policy of indiscriminate slash-and-burn to satisfy the insatiable appetite of the most fortunate, who knows? I guess the province could have to rely on the very last user fee dollars of those who don't have the capacity to get richer in this world.

Madame, I need your help because I don't wish to impute a tone that perhaps wasn't there. I listened intently to your words of wisdom in your presentation, and we've got accustomed over the years we've been working together, for better for a number of years, so it's a renewed pleasure. But you send some hesitation when you mention—you didn't mention block funding. "There's the envelope and a pittance, but we'll give you devolution at the same time, you see: fewer dollars to do things with, but you'll have the power to"—

Ms Shelley Martel (Sudbury East): The tools.

Mr Pouliot:—"the tools to do what you wish with it."

I would be afraid that somebody would plainly tell me to go to hell as I interfere. On the one hand, you're sending a signal to municipalities that they are the beneficiaries of devolution, they have more power now. On the other hand, you're cognizant that \$30 billion out of—what do we spend? \$56 billion something, and we take in \$46 billion; the rest of it is a challenge, plus another \$5 billion because of the tax, but that's another story. You no longer dedicate those payments, or not to the same extent. You give more devolution so people have more flexibility to deal with the money they have.

Mr Peters wishes to be sanctioned by the committee, to be mandated to go one step further in the money trail, the transfer payments, to say, "Are we really getting value for money?" Aren't you running against the current here? It's quite a challenge. You don't have the same dedication of funds, you have less money and your transfer agency's partners in the tradeoff have not only more jurisdictional capacity but more flexibility in terms of allocation of funds. You're trying to follow a curriculum, which you will have to follow if you want to come back here and tell the people of the province, as their

guardian, that yes, people are getting value for money now that we have entered the field where we didn't belong before.

I will not be on the road with you, for I value my life. I've been here only 11 years, but I was almost 11 years at the municipal and regional level before I got here.

The Vice-Chair: Is there a regional level in Manitouwadge?

Mr Pouliot: No, we have a region and the proud community of Manitouwadge also. So I did both of them. We're not all from the big city, sir. In fact we never have two bad days in a row where I come from, for on the second day you always point to Toronto.

I have some difficulties with this as I read what the Audit Act should reflect. On the one hand, I heard the presentation from Mr Peters this morning, and I'm sold; I think really we have to and I think we did acquiesce. On the other hand, I'm afraid of the heavy traffic, because we've been told by those people there, we've been told by the government, "Expect more devolution." In fact Mr Leach got a standing ovation when he told that to AMO, the Association of Municipalities of Ontario. It's the only standing ovation he will get, but you enjoy those while they last. I know what it's like.

Mr Beaubien: How many did you get?

Mr Pouliot: Very good.

Ms Martel: Let them answer the question.

Mr Pouliot: No, no, no, just one second here. How are you going to do this? I sense a reluctance. You tell me how you're going to do this. You're talking about a business planning framework. The revenue picture changes every day. Every second month the Treasurer comes in with his statement—because we don't have yet the courage for a full-fledged budget—of 5%. The Conference Board of Canada says 2%, two days ago the Royal Bank says 1.8%. Who am I to believe? This government or the Conference Board of Canada and the Royal Bank? Well, really.

I would appreciate your comment on what I've mentioned. How are you going to do it in terms of nuts and bolts? Where's the fallout in the real world? Because these people are going to cut your resources. You can't say this, but I can. I have to live with them, and I don't like it one bit. Under Bill 26 they've given themselves powers that are unprecedented. So when you make this bouillabaisse, when you make this, it doesn't add up. The philosophy doesn't hold.

Mr Christie: Perhaps I could comment on an element of your question. Again going back to the Financial Review Commission, you talked about the advice you hear from the Royal Bank or the Conference Board of Canada. One of the recommendations of the review commission in terms of our planning was that we adopt prudent, cautious assumptions to the economy and to our revenue etc, so that if there were revenue surprises—and I think people who have been around our financial affairs for a while are familiar with some of the surprises that we can experience on the revenue side. The advice we got was that we'd be quite cautious in terms of the way we forecast this and plan this so that if we do get a surprise, it's more likely to be a pleasant one than an unpleasant one.

1430

Certainly there has been an attempt to do that and time will tell how successful we are in that. For example, between the minister's July statement and the statement in November, although the economy had weakened quite a bit, our revenue basically remained on track because we had taken quite a cautious approach to the revenue picture in July. In the context of your concern about the planning side of the comments you were making, I wanted to bring forward that part of the recommendation of the review commission.

Ms Martel: Maybe I could just follow up from where Gilles was heading when he talked about, how do you put in place an accountability framework for the transfer partners, when at the same time you're saying to the transfer partners (a) you have less money and you can expect less money in the next two years and probably the two after that, and (b) instead of putting conditions on our funding, we're moving to unconditional or block grants. It seems to me that if you're trying to talk about accountability, the very mechanisms you want to enshrine that accountability are being removed. If you don't have conditions, if people are given the money and told, "Make do with what you have as best you can based on your local priorities," how do you have an acceptable accountability framework as the commission, as I understand, wants us to look at?

Mr Christie: There are a number of dimensions, I guess, to that. One is that there are within—I mean, in terms of what a specific ministry does with the people with whom it deals, the model, again, that the commission was talking about was one that would have the ministry, in terms of all of the tools at its disposal—not just its directly financial tools but its regulatory activity and the other ways in which it deals with those parts of the province for which it's responsible—would have basically performance targets, ways in which it could be measured in terms of what it set out to accomplish in its area of responsibility. Certainly, while grants are one way of achieving that, there are other ways as well, including joint planning with either a local partner or a community partner, including regulatory mechanisms etc. So there are a variety of things that can be brought to bear to accomplish the goals that are set out.

I think it's also worth noting that many of these so-called unconditional grants are present not to force compliance, let's say, with certain provincial goals, they're there for a sense of fairness; for example, like federal equalization payments, in terms of trying to even out the resource base that people have to deal with things, and I think that's particularly true in the municipal area. For example, one of the things you would look at in that regard was not whether it was tied to a program outcome or not, but whether it achieved a certain goal in terms of giving different regions roughly comparable fiscal capacities for dealing with their difficulties. It's not necessarily that a grant be tied to a specific program, it depends on the purpose of the grant and then, again, that comes into how you audit against it.

Mr Gilchrist: To either or both, there's no doubt that all three parties I'm sure would agree that the hallmark of this or any government should be openness and account-

ability. I guess really the question we're wrestling with here today is how best to achieve that goal. There is no doubt that within the existing purview of the auditor we have the ability to go in and see if the taxpayers' dollars are being appropriately expended, and where they are not the public is illuminated with the deficiencies as they exist. However, as the auditor has correctly pointed out, the vast majority of the dollars we are accountable for we ourselves don't directly expend, we merely transfer them to the so-called MUSH sector.

I guess my question is, if changes to the Audit Act are not appropriate, and that is certainly the model that Mr Peters has presented to us so far, are there other mechanisms to ensure that within that MUSH sector there first off is the same degree of audit, the same degree of accountability, whether it's done through the Provincial Auditor—maybe it's done through an outside auditor of some kind. More importantly, not only is the audit being done, but is that information being shared back to the relevant minister and, if not, how would you propose, or are there other models that have been advanced, to ensure that we receive the straight goods on how our dollars are being spent?

Ms Bouey: On that one, I think it's important to take a look at the sectors, sort of sector by sector, to see what the requirements are in terms of first of all what the ministries are requiring from their transfer payment partners in terms of, are the expectations laid out clearly in terms of outcomes? And then what kind of reporting requirement there is in terms of do they have to have some form of audit, what happens to the results of that audit? That's something you may want to explore with the ministries and with the transfer payment partners. Clearly, there should be at some level some sort of review as to whether people are spending money, that the outcomes are clearly expected and that there is a review that people are spending money to meet those outcomes.

Mr Gilchrist: You mentioned the work done by the Ontario Financial Review Commission. Would it be appropriate, from your perspective in terms of having been involved in this far more than at least myself as a new member in this whole process, to seek the input from Mr Broadhurst, who I believe is the chair of that commission? Also, would it be appropriate to seek input from selected transfer partners to get an idea of whether or not they are doing the same kind of thorough audits and what they would suggest in terms of the mechanisms to ensure that the information is coming back to us, and through us to the taxpayers?

Ms Bouey: I would think it would be. In terms of the transfer payment partners particularly, I think accountability is always a two-way street. Both sides have to understand what's expected of them and why. It would be useful to have their views. I know that we at Management Board would be quite interested in their views as they look ahead and see the regimes that they will be facing, just what the appropriate accountability structure should be.

Mr Gilchrist: I guess the only other question I'd have, and I know Mr Skarica has a question, there is no doubt that the transfer payment scene is changing dramatically. I think the point you made was that it would be inappro-

priate to cast in stone some kind of a model today based on the spending in the 1994-95 year when already we've made significant steps to change not just the dollar value but the overall parameters behind a lot of our funding of transfer partners. In fact, with municipalities, by and large, we've gone to unconditional grants. Whereas previously there might have been a mechanism to tie so many dollars to the actual construction of roads, now we've said, "Here's a bundle of money and do with it as you see fit and you're accountable to the taxpayers in your own municipality."

1440

How do we reconcile, I think I've said earlier, the consensus that at some point there is a need for us to build, if not through legislation at least through a lot more detail in terms of the guidelines given to the ministries, the accountability before we spend money as opposed to finding out after the horse has bolted that it was improperly spent? Is this something you would see happening a year from now, two years from now, that we would have evolved into a new businesslike style in terms of our relationship with our transfer partners, at which time it might be more appropriate? I know it's somewhat unfair to ask you to gaze into your crystal ball, but if not in terms of months, are we halfway through a process here and you're confident that at some point in the future we'll be able to deal with this legislatively or through guidelines?

Ms Bouey: I think we are already working with our colleague ministries in terms of adopting what we can from the Financial Review Commission, working to see how we can make it work in the public sector setting, the kinds of more businesslike practices. I would suspect over the next year or two we will have a far better idea of how that can be made to work.

Another element in this is there has been some reference in the discussion to conditional versus unconditional grants. As one works through the changes in programs, obviously, people will have to give thought to whether the nature of the particular program is such that it's one that the province wants to dictate a lot of the terms and conditions around or whether it wants to give, as Bob has suggested, a local capacity to determine that as one of many other priorities.

Mr Toni Skarica (Wentworth North): I just have one question. Sometimes, as you know, our government's criticized for moving too quickly, and I've heard that from the members opposite and often in the papers as well. I note here that this was a problem, accountability, value for money, we needed a better system, and that was reported in the 1993 annual report. It referred to discussions with this committee that it started in 1989. That was \$45 billion ago. Why is this taking so long? If I was watching these proceedings, I might ask that. Why does it take so long? We knew we had a problem in 1989-90 and here we're discussing it in 1996. If you can answer that without casting aspersions to the members opposite, what's the holdup?

Mr Christie: I can't directly answer your question. This is obviously, just from the nature of the discussion that's been had to date, a matter that's got some complexity involved to it, and I think that's certainly a factor. It's

also the case that the pressures on government—the environment is changing and in the time period you mention has changed quite rapidly. I think the necessity to adjust to that in terms of retargeting what one wants to do on the accountability front deals with part of your question as well.

Certainly, recently there have been steps such as the Financial Review Commission and its report and the kind of follow-up activities to that that Kathy has mentioned that I think show at least a more rapid pace of advance on the problem than has been the case in the past. For those of us whose responsibilities include these areas of accountability and improving accountability, I think we're very hopeful that that pace of improvement will continue.

Mr Skarica: It would seem to me that when you're piling up debts at the rate of \$10 billion a year, there's somewhat of a need to move somewhat quickly.

Mr Gerry Phillips (Scarborough-Agincourt): Just in terms of the Audit Act, what should be the major financial document that we rely on from the government every year? What document is the key financial document?

Ms Martel: This is a trick question.

Mr Christie: At the moment, it depends clearly on the purpose for which you're looking at the document. If you're looking at what is the government's financial plan, I would suggest that the key document is the budget; if you're looking at what is the government's financial position, the key document is public accounts; if the question is what are the government's key spending plans, the key document is the expenditure estimates.

Mr Phillips: If the budget is our key planning document, which I agree with, I think that is the document and I think the public probably thinks that—anybody who's ever looked at it says, "That is the key document"—do you think our Audit Act should require that perhaps we prepare our budget each year?

Mr Christie: I have no opinion on the matter.

Mr Phillips: Maybe I can just propose an opinion, at least for the committee, and that is, if we all believe it is the key financial document, the key planning document, if as the Provincial Auditor has told us in his reports that is the most important document for the Legislature to evaluate where the government stands financially, I one of the things we may want to look at in the Audit Act is to make sure we have a budget every year.

I was amazed actually that we don't need to have a budget, that legally you can get by with no budget. So the government has chosen this year, 1995-96, for the first time in history to have no budget, the first time in history there is no budget for the province.

Mr Gilchrist: Which government and which spring?

Mr Pouliot: The member has the floor.

Mr Phillips: Yes. The viewers who may be watching this will be interested to know the government's beginning to heckle, but it is the first time in history that the province has not had a budget. For me, at least, one of the first things in an Audit Act would be that perhaps we should insist to ourselves that we actually prepare a budget. Perhaps that may be putting you in too tough a spot, but certainly one of the things I will be discussing with the committee is that almost above everything else we should have a budget that lays out for the people of the province.

The second thing—I'm looking at the Ontario Financial Review Commission—that it recommends is that the government table what's called its medium-term fiscal outlook, its outlook for the current fiscal year and the next two years. Again, I think one of the things we want to look at in the Audit Act is that this be available. Again, for the first time in my memory, we do not have an outlook of the expenditures and the revenue of the province. We don't have that for the next three years. We've got one number which is the deficit number.

I may be asking the wrong people, it may be that we have to discuss this, but is that also a key document, a key number that should be required in an Audit Act, that the government lay out for the people its medium-term fiscal outlook?

Mr Christie: On the question of the medium-term fiscal outlook as it pertained to the OFRC recommendation, I believe the recommendation was that the budget should contain such a medium-term outlook. The question of what is a budget and how often a budget should be proposed again is a different issue. I know that there are federal precedents for budgets that are more or less frequent than the annual norm. In terms of some of the medium-term information, certainly the November statement of the Minister of Finance contained a lot of the information that is normally provided in the fall of each year, including a medium-term economic outlook, but you are correct that it did not contain the multi-year expenditure and revenue projection.

1450

Mr Phillips: Let me just say that I found that personally offensive. You had nothing to do with it, so I'm venting my anger at somebody else, not you. That was the reason—I suspected all along the government wasn't going to do that for the public. What this is, is a medium-term fiscal outlook. It's a three-year outlook on the revenue and expenses of the province, which is fundamental.

The thing that really irritated me, frankly, was to find that the bond rating agencies, the credit rating agencies, apparently have been given some form of medium-term fiscal outlook, according to published information have been given that, and the Legislature was never given the medium-term fiscal outlook. I believe that is the key document.

The reason I raise this is for the Audit Act I wonder if we shouldn't be looking at what are the prescribed, essential, publicly available data that we should be guaranteed we have every year. We still don't have it. The minister is coming on Monday to committee. I assume he's going to provide it for us then. But we will have gone for six or eight months without having a medium-term fiscal outlook from the government.

Again, I'm putting you in an unfair position, Mr Christie, because this is really for the government to answer, not for the staff, but for me, discussing the Audit Act, I think a couple of fundamental things we should have in the Audit Act is that we have a budget each year—I believe the committee actually recommended that the budget be presented before the fiscal year starts.

Mr Christie: That's correct.

Mr Phillips: I'll ask the question of the minister on Monday, because it's an unfair question for you.

In terms of other recommendations in the Financial Review Commission's recommendations that should be in an Audit Act, do you have any advice for us on other things that they recommended we should consider for our Audit Act?

Mr Christie: Generally, the recommendations of the commission were not legislative in terms of their focus. I think the main legislative area they talked about was the business planning framework. A number of their recommendations did have to do with the way in which we organize our planning and accountability structures, but typically their recommendations did not lead towards particularly an Audit Act change, to the best of my recollection.

Mr Phillips: Maybe the Provincial Auditor can answer, how do we ensure that a budget does contain the elements that are recommended if it's not through legislation?

The Vice-Chair: Mr Peters would like to clarify something.

Mr Peters: I think it's probably a good time, because Mr Phillips just raised a question. I think one of the things we have to do is follow in a way the lead somewhat of the Financial Review Commission, which divorced the accountability framework and the planning framework from the Audit Act itself, because the Audit Act in a way prescribes my duties, but should really not be used to prescribe the duties of the Minister of Finance or the Ministry of Finance.

Very specifically—and I notice, Mr Phillips, you have it there—you might want to take a look, if you wouldn't mind, at page 32 of the Financial Review Commission. I just would like to refer you to this, because there's a very important feature of the recommendations of the Financial Review Commission and that is that as I did in my 1995 report, the commission itself has found the legislative estimates review process, which I think is probably the best vehicle for the Parliament, for the assembly to take a look at the estimates and the plans, as it currently exists—as I put it in my report, in the past my office had deemed it to be inefficient and maligned, and I said it has graduated to merely being ineffective.

In the recommendations they make, and maybe I could read them very quickly into the record, they suggest, and this is a suggestion of the commission and maybe this will deal with these concerns:

"That the special review consider the following additional suggestions from the commission:

"—An appropriate committee of the Legislature, which could be a renamed and redefined existing committee, should be given the task of reviewing each ministry business plan before the start of the three-year planning cycle it covers;

"—The committee should conduct reviews on a three-year rotational cycle....

"—In looking at each plan, the committee should be able to consult with the appropriate minister and deputy minister, the Provincial Auditor, and others as needed;

"—The committee should look at the ministry's proposed measures...." etc.

Also very important in this connection is recommendation I-18 which says that "the requirement for business plans, as outlined in this report, at the government, ministry and agency level, be legislated."

Mr Phillips: Aha.

Mr Peters: So there is a very distinct recommendation here and I think, if I may help in this process, they did stay away from building something like this into the Audit Act, but we're recommending, as I did this morning, that the legislation follow another vehicle, an accountability framework vehicle of one sort, be it the Financial Administration Act or the Management Board of Cabinet Act or some other—

Mr Phillips: Bill 26?

Mr Phillips: Too late. That's gone.

Mr Peters: I don't want to get into the political debate on this one. I just wanted to point out to you that the commission has dealt with the issue and just to relate this to you.

Mr Phillips: That's helpful.

Mr Pouliot: We wouldn't wish to label anything "Son of Bill 26" for there is nothing left there. I share the views of my learned colleague and the Finance critic for the official opposition, Mr Phillips, that not only decency but when we're talking about the irony here—legislated accountability. Beyond the noblesse oblige, the first thing you would do is at approximately the same time each and every year you would have a full-fledged budget.

No one would be locked out at a lock-in. There would be no ruse, no lure, no games, no one would hide under the cover of darkness for ulterior motives. So a budget each and every year followed by estimates which go hand in hand, so people who indulge in the line-by-line would have their fill, would have their curiosity, and could do the work for they would have the tools to do the work. You could build it. Are the taxpayers of Ontario getting value for money? It would make his job an awful lot better in terms of appropriation of time, if nothing else, that you would know what to expect, you knew what format it would take.

I have a question vis-à-vis the proposal that is in front of us, and a comparison with other jurisdictions, namely, provinces. How is the sister province of—we hear Alberta more often but I think both in size and in terms of neighbours, our relationship commercially with the province of Quebec, for instance, which is the second largest jurisdiction. Philosophically, with the present administration it may not be as valid as the one from Alberta, for the Alberta experience is written in the book. But how are the other provinces doing in terms of pursuing the role of expanding the mandate of the Provincial Auditor and their value for—well, not so much value for money, maybe not as much as here, Mr Peters, but in their endeavour, how does it work? Are they more advanced than we are? Do they go further? Do they check the transfer payments to see if taxpayers are getting value for money?

Mr Christie: Perhaps I could ask Mr Siddall to help out with the answer to that question.

Mr Robert Siddall: I'm the director of the controllership branch. I think on the question the Provincial Auditor could also help in terms of how other

jurisdictions are, but in the area of transfer payments, I guess the federal government would be in a position where they would have transfer payments to Ontario and other provinces, and the Auditor General of Canada does not have the opportunity to do value-for-money audits of our transfer payments. But generally I don't believe that there is any jurisdiction in Canada that has, currently, the opportunity to do value-for-money audits of transfer payments. I would defer to the Provincial Auditor, who might have better information on that.

1500

Mr Peters: Thank you, Rob. What I would like to do for your benefit—the mandates of the legislative auditors across Canada are starting to be very similar in this regard. The use of transfer payments, though, between the various jurisdictions differs quite a bit in terms of the approach taken. For example, Saskatchewan has taken the approach of virtually incorporating corporations as separate corporations all along. But there is no obstacle in terms of access to information put in the way of most other jurisdictions.

I think we are fairly unique in our being in the inspection, that our inspection audits for transfer payment recipients are limited to accounting records. Most of the other jurisdictions are moving along the lines of extending the value-for-money audits into the other areas. We can provide the committee, if you wish, with the specifics of each jurisdiction.

Mr Pouliot: Just one last comment. As you get closer, as you establish an action directe and a flow between what we send to our transfer partners, you are not allowed to comment on a political philosophy, right, Mr Peters? If your findings result in a political philosophy, you're not allowed in your report to make any comments, right?

The Vice-Chair: As a result of the policy.

Mr Peters: That's right. With our policy I cannot comment on it.

Mr Pouliot: The line is getting a lot more difficult to walk, and with the acrobats opposite it's immensely more difficult. I'm trying to be comfortable with—and I dealt with transfer payments when I was the reeve of Manitowadge—conditional grants. We used to refer to them as a sham—I've examined closely the philosophy—transfers between for instance the Ministry of Transportation to pretty well each and every municipality. There was an allocation, for instance, for removing snow and another one to build roads.

Over the years what did happen, because then it became philosophical, was that the money that was for capital went for operation, because you didn't want to tell Harry Smith, the grader operator, that he would be out of a job, and a small portion was put aside to access the supplementary allocation under the Ministry of Transportation. So people were playing the shell game very well.

As the dollars got fewer and fewer you did not have, some will say, the political courage, but you could not tell them, "Well, look, you're only getting so much money, we're sending you fewer dollars, but now we're going to tell you this is for operation and this is for capital." Plus, given the diversity, you had a great deal of difficulty trying to police it. So you were much better off

to take 10% off your transfer payment one year after the next and say, "At least, Harry, you can do what you wish with that," and you kept monitoring a lot.

What I'm trying to put across is that it's very difficult to respect your mandate, value for money—and heavens, that's okay—and not have the ability to comment on political philosophies, because it's exactly that. The example I've given is not one on transportation, but I'm sure they do abound, and they really tie your hands.

That's the only caution I have. I too would wish to see where every dollar that Ontarians pay goes. Is it being well spent? Given the diversity of this vast and magnificent land—we have 11 million people, 880 municipalities—it's a task indeed.

Mr Peters: Just a very quick comment. First I'd like to confirm to you that in the province of Quebec the auditor general has the right to carry out value-for-money audits. He does have that right already. So does Nova Scotia and so does British Columbia, for example, as three other big provinces.

Mr Pouliot: Maybe it wouldn't be a bad idea for this committee to travel and live the British Columbia experience to see how they do things there so we can better compare.

Mr Peters: It may be value for money in this weather.

Another quick comment and that is, we can comment to a certain extent on these decisions. In my 1994 report, for example, I reported, on the municipal road subsidies, that virtually 50% more was spent not on building roads, which was the legislative intent, but on clearing ditches and putting salt on the roads.

Mr Pouliot: You almost cost me my job at cabinet, Erik.

Mr Peters: I did, eh?

Mr Pouliot: I had four ministries and you were the most difficult. I still remember that day. It really hurt me. You were right on, but that's no reason.

Mr Peters: Here I thought I was helping your cause.

Mr Gilchrist: I guess you could say that to bring it up again is to rub road salt in an open wound.

The Vice-Chair: Rock salt.

Mr Gilchrist: Rock salt, indeed. I just want to get something on the record because I think the hallmark of the work of this committee so far in this term has been a very non-partisan approach to the issues, and I'm disappointed. It's unfortunate that Mr Phillips stayed only long enough to make his shot. I would just like to ask both of you, for the record, what time of the year are budgets always presented in this province?

Ms Bouey: Generally, budgets have been in the spring, in the period somewhere between March and June.

Mr Gilchrist: It's fair to say that, given that we weren't elected in the spring of this year, it would be inappropriate to castigate this government for not having prepared a budget at the time of year, considering we weren't the government?

Ms Bouey: I wouldn't have any comment on that.

Mr Gilchrist: Okay. The other point I'd like to make is that Mr Phillips suggested that the economic statement, which was a very thorough outline of the spending issues that face this province, the background and the plan for the next 18 months, in some areas goes forward five

years—more than the three years he was suggesting we required. I direct him to page 41 as an example on where our budget will stand. So I think, Mr Chairman, it's somewhat inappropriate and it was particularly inappropriate, given that budgets—rather than my making the observation, let me ask Mr Peters directly.

The fact that the government every spring comes out with a budget, which is its overall statement of where it expects to spend its money, given that a myriad of factors can interfere with the actual expenditures—you don't get the contracts signed on time to build that road; there may be delays in arriving at certain pre-planning and pre-engineering conclusions—your audits always deal with the actual dollars that are spent, not with the dollars that are proposed to be spent in the budget. Is that not correct?

Mr Peters: That's absolutely correct.

Mr Gilchrist: So to suggest that the budget has anything to do with the audit process is really to some extent a red herring. In fact, expenditures are what you deal with.

Mr Peters: That's right. There is no relationship between the budget and the Audit Act as such. Where we are concerned, although not officially, about the budget at the moment, and I have made recommendations, is in fact that the accounting rules that are followed in the accounts that I audit should be the same accounting rules that were actually used in determining the budget. Otherwise I get into the position where I've been in the past, that I normally have to give an audit opinion on accounts that show, in one year, up to 20% different deficit numbers than were budgeted for, and that is of major concern.

I think that is one of the concerns that Mr Phillips had, in fact. He felt that I shouldn't be put into the position of having to make those kinds of comments. In fact, the Ontario Financial Review Commission has very clearly recommended that the accounting rules that are followed in the budget should be the same as the ones I use in the public accounts. That is a recommendation of the commission.

1510

Mr Gilchrist: It's my understanding that that was one of the changes that the Finance minister already has announced.

Mr Peters: And I was delighted with it.

Mr Gilchrist: So there will no longer be, as you euphemistically termed, two sets of books. You are going to have the straight accounting that's expected of companies outside the government.

Mr Peters: Let me put it the way I like to put it, that we plan on the same basis as we perform.

Mr Gilchrist: Excellent. Thank you, Mr Peters.

Mr Phillips: I had to slip out of the room for a minute and I gather—pardon me?

Mr Peters: We resolved your problem.

Mr Phillips: That's fine. It's unfortunate that whoever said something about me couldn't wait till I came back in the room, but now I'm back.

Just to summarize what I take from the discussion, and the staff can comment if they want, we don't have a budget this year. The government was elected in June.

There have been lots of governments elected in June before that then present a budget. They prepare and get a budget ready, but the problem is, I gather, Mr Peters, that there's no legislative requirement that a government present a budget. It's nowhere legislated that there has to be a budget each year.

Mr Peters: I have not done the research, but preliminarily I would agree with you.

Mr Phillips: If we were to deal with that, it would have to be not in the Audit Act but in part of the recommendation that might come from reviewing the Ontario Financial Review Commission.

Mr Peters: That's the I-18.

Mr Phillips: The I-18 would say there's a requirement that the government each year prepare a budget and that the budget should be in this format and that it contain I guess the recommendation from this committee, which I gather the government is supportive of, that the budget should contain business plans etc. But you're saying we can't do that in the Audit Act or it's inappropriate to do that in the Audit Act.

Mr Peters: It would be inappropriate in the Audit Act.

Mr Phillips: But it is appropriate to do it in a form of freestanding legislation? Or should another piece of legislation be amended?

Mr Peters: It could be in the Financial Administration Act or it could be in another piece of legislation that deals with the financial end of administration of the government's finances.

Mr Phillips: I would hope that we would give serious consideration to doing that. I realize we're talking about the Audit Act right now, but an even more fundamental thing for me is that the public is owed a presentation of the finances in a way that meets some basic criteria and, importantly, that every year we have one. I don't think we can ever go through another year where the government gets all its spending authority by special warrants. It is unheard of that you've gotten all your spending authority to spend all your money by special warrants and by Bill 26.

Mr Chair, I hope we deal with that part of the budget process when we're dealing with the Audit Act.

Just in terms of the Audit Act, Mr Provincial Auditor, I gather that it is your opinion that this area, dealing with some value-for-money audits in our transfer payments, is an area that has high priority with Provincial Auditor staff over focusing on the non-transfer-payment areas. Is that a fair statement?

Mr Peters: Actually, no. It is a high priority in terms of being the only amendment or enhancement of the Audit Act that we're seeking right now. But in my presentation I made it abundantly clear that at the current resource level the only way I can handle, actually—if there were an amendment to follow in the Audit Act, I could only apply it by changing the mix. In other words, I would retain my priority. The act as priority would not be affected, in other words, my audit of the public accounts of the province, nor would the audit be affected of the 70 organizations on which I give separate audit opinions in the government. The only impact it would have is actually to reduce slightly the number of ministry audits and agency audits we are carrying out for value for

money and compliance. We could only do one or two transfer payment recipients in a year, maximum, for compliance and value for money, and it's the compliance and value-for-money area we currently cannot look at and we are seeking an amendment for.

Mr Phillips: Well, we in the Liberal caucus have pushed very hard for moving to the public sector accounting and auditing format. I'm pleased to see the government moving to that; we've supported that from the outset. Does that move put any extra pressure at all on the provincial audit, or you were doing it anyway for the public accounts so that the move is not going to represent the use of more resources for the next year or two?

Mr Peters: You mean moving the budget also on to PSAAB, now that we have the books?

Mr Phillips: Yes.

Mr Peters: No, it essentially doesn't.

Mr Phillips: So one way or another, that doesn't impact you, because the public accounts I think actually have been prepared on that basis anyway. So that shouldn't represent incremental work for either—

Mr Peters: That has now been accomplished, thanks to Mr Siddall and his good work over in the Ministry of Finance, as well as very much effort on behalf of my staff. But I think we're over the hump in that regard.

Mr Phillips: That's very helpful. Those were all the questions I had.

The Vice-Chair: Ms Bouey would like to make a comment.

Ms Bouey: Just a question of clarification. We are now operating under the spending authority from the estimates which were tabled in—I believe there were estimates and supplementary estimates tabled in early November last year.

Mr Phillips: So you operated on special warrants for the first six months, was it?

Ms Bouey: About that, yes.

Mr Phillips: Or to the end of December?

Ms Bouey: I'm not sure exactly when the special warrants expired, but the estimates were tabled at the beginning of November, roughly.

Mr Pouliot: I have a question for Mr Peters. Given that you will have no supplementary resources, and we know the government is preparing a long list of casualties, which will number anywhere between—one report says an astronomical figure of 27,000. Indeed, their manifesto, that bulletin that they published during the election, mentions 13,000 and there is an acquiescence from the Minister of Finance and the minister responsible for treasury board that it will be more, it will exceed that, so it's not likely that you will have more resources.

As you embark on your extended mandate of going to the recipient—the agencies, boards and commissions, people who get money by way of transfer payments—you will not be able, with the same staff, the same personnel, to do the same meticulous audit of government ministries. People can only work so many hours a day.

In my opinion, if there ever was a time where meticulous attention should be given to ministries, the time is now. I think you've mentioned, Mr Peters, that you won't be as vigilant—or you will be as vigilant but not as often inside the ministry because you will have to use some

personnel to go and see the transfer recipient and audit them. It's my understanding that the zeal of the present regime will not allow for more staff. They won't give you more money or more tools so you can do the job on behalf of Ontarians. It's going to be tough.

Where does it give? If you embark and you go and do audits of school boards or hospitals, if you wish, some ministries will suffer, right? Some audits won't be done.

Mr Peters: One or two compliance and value-for-money audits in ministries may not take place that year. 1520

Mr Pouliot: Mr Peters, maybe you cannot answer this, but would that not serve the—oh, you're not inclined that way, but some people, maybe it would serve their purpose that this not be done. "Why don't you go and audit the other people? They're getting..."—the recipients from the province—"and leave the ministry alone." I know it's an impossible question to answer, but sometimes I think that way, because they force me. These people across think that way. I would not wish to sacrifice, as a member of the committee, auditing the ministry, much more so than the transfer recipients, and obviously, unless you have more resources, unless the government gives you more tools to do the job that needs to be done—

Mr Peters: Let me just, if I may, respond to this in two ways. There are certain statutory duties that my office has which are the so-called attest audits of the consolidated revenue fund and other financial statements of the government, of agencies. That work will not suffer.

There is another, and that is the discretionary aspect of my work, which is essentially the value-for-money aspect.

What I am proposing is that we'll be able to accommodate this within the mix of audits, provided that my current level of resources is not further reduced, or the ones that I have proposed will not be reduced. If that is reduced, then indeed there will be consequences.

If you'll let me make a last comment, assume for a moment that eventually we manage to get into a balanced budget, a zero deficit. My audit domain will have shrunk in that case by only about \$10 billion, to \$90 billion, if you add revenues. Assume we have \$45 billion in revenues and \$45 billion of expenses at that particular point in time; my audit domain is still \$90 billion. That requires a certain minimum level of audit effort. That is still a very big business indeed.

Mr Pouliot: Thank heaven we have 725,000 jobs that are on their way, that are coming; not now, but are coming very soon. Thank you.

Mr Beaubien: Just a quick question for Ms Bouey. Could you tell me how the government operated from

April 1995 to June 1995? Did they have a credit card? According to the members on the other side, it would appear that there was just no money to operate the government.

Ms Bouey: I believe they operated under special warrants.

Mr Beaubien: So it's not unique; it just did not occur after June 1995.

One of the comments I would like to make: I thought these committees were supposed to be non-partisan. I've been here an hour and a half today and probably I've heard politics for an hour and 15 minutes.

Mr Phillips: I don't think Mr Gilchrist was that bad.

The Vice-Chair: Mr Skarica, did you have a non-partisan question?

Mr Skarica: No. We had an admission from a former cabinet minister in this very room today, and I won't mention him or her to embarrass him or her, but they admitted their ministry came in over budget after the year-end. Did that happen from time to time in the past?

Ms Bouey: Yes. The way it happens is through a system of Management Board approvals. There are treasury board orders issued and so on, or supplementary estimates during the year.

Mr Skarica: And that happens even though there's a pretty vigilant auditing staff. Correct?

Ms Bouey: Audits take place after money is spent.

Mr Skarica: One of the questions I asked the auditor is how feasible it would be to have a plan where—in private business, if you come in substantially over budget and you're the manager, you often either lose your job or take a pay cut. How feasible would it be to have the minister who is 20% over budget have 20% of his income forfeited, or the deputy minister in the same position? Has that ever been addressed or would that have any impact aside from a little bit of alarm?

Ms Bouey: As someone who is neither a minister nor a deputy minister, and who works for them, I have a certain reluctance to answer that question.

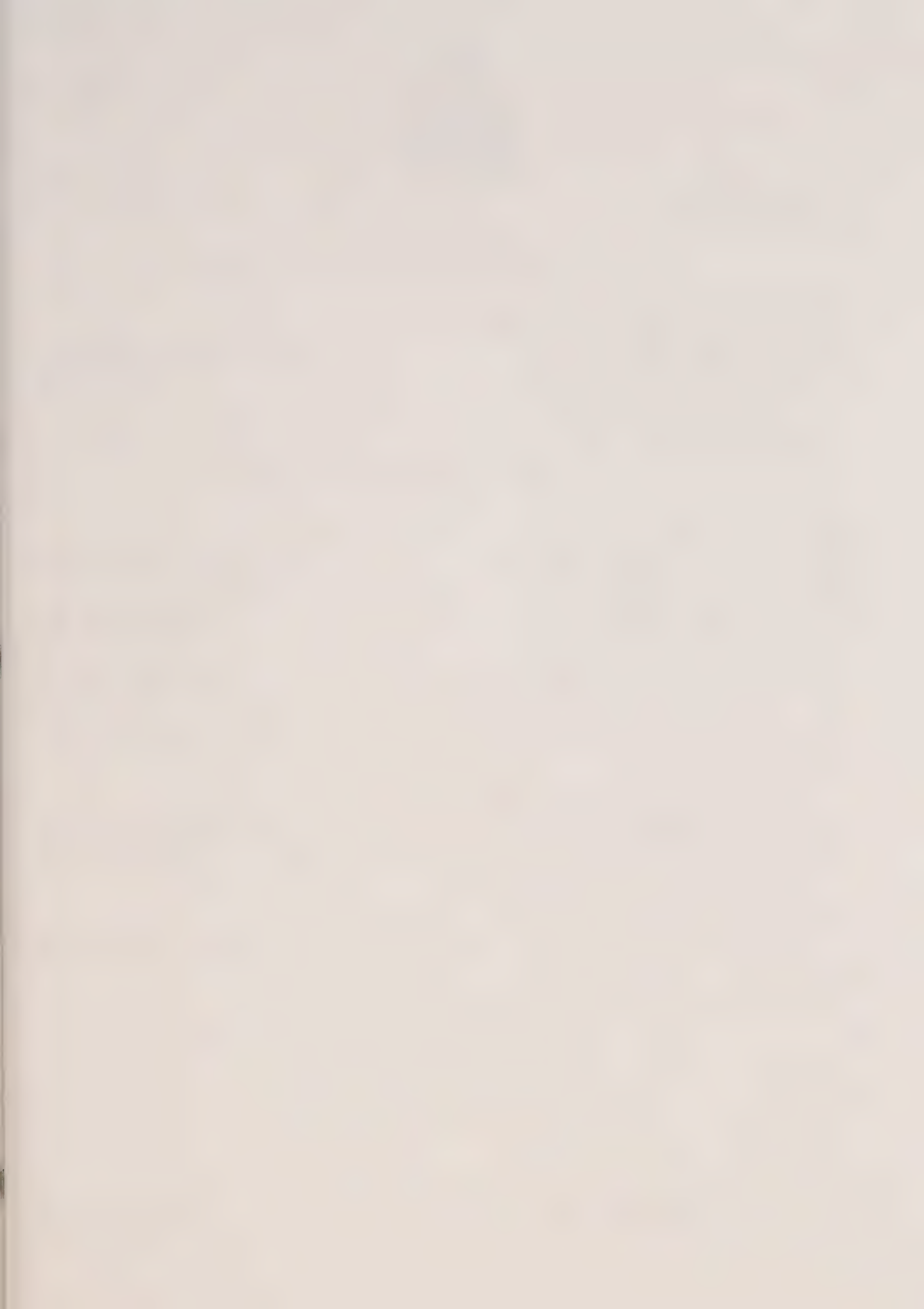
Mr Skarica: How about yourself?

Ms Bouey: Quite seriously, it is something I understand the Centre for Leadership for government executives is looking at, some form of performance-based pay.

The Vice-Chair: If there aren't any more questions, I want to thank the witnesses for appearing, and again, under short notice, for rearranging your schedule. I think that's very appreciated.

We are to meet again tomorrow morning only. That is my understanding. So the committee stands adjourned until tomorrow at 10 o'clock. Thank you.

The committee recessed at 1526.



CONTENTS

Thursday 1 February 1996

Audit Act amendments P-95

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Chair / Président: McGuinty, Dalton (Ottawa South / -Sud L)

Vice-Chair / Vice-Président: Colle, Mike (Oakwood L)

*Agostino, Dominic (Hamilton East / -Est L)

*Beaubien, Marcel (Lambton PC)

Boushy, Dave (Sarnia PC)

*Carr, Gary (Oakville South / -Sud PC)

*Colle, Mike (Oakwood L)

*Crozier, Bruce (Essex South / -Sud L)

*Fox, Gary (Prince Edward-Lennox-South Hastings / Prince Edward-Lennox-Hastings-Sud PC)

*Gilchrist, Steve (Scarborough East / -Est PC)

Hastings, John (Etobicoke-Rexdale PC)

*Martel, Shelley (Sudbury East / -Est ND)

*McGuinty, Dalton (Ottawa South / -Sud L)

*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

*Skarica, Toni (Wentworth North / -Nord PC)

*Vankoughnet, Bill (Frontenac-Addington PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Doyle, Ed (Wentworth East / -Est PC) for Mr Hastings

Also taking part / Autre participants et participantes:

Office of the Provincial Auditor

Peters, Erik, Provincial Auditor

Leishman, Ken, Assistant Provincial Auditor

Management Board Secretariat

Kathy Bouey, assistant deputy minister, program management and estimates

Ministry of Finance

Bob Christie, assistant deputy minister and controller

Robert Siddall, director, controllership branch

Phillips, Gerry (Scarborough-Agincourt L)

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

A20N
XC21
P72



P-8

P-8

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Friday 2 February 1996

**Standing committee on
public accounts**

Audit Act amendments

Journal des débats (Hansard)

Vendredi 2 février 1996

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comptes publics**

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Friday 2 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Vendredi 2 février 1996

The committee met at 1002 in room 151.

AUDIT ACT AMENDMENTS

The Vice-Chair (Mr Mike Colle): Today we're here to deal with the auditor's suggestions and pass suggestions on amendments to the Audit Act. I refer you to Mr Peters's presentation yesterday. Perhaps we could get Mr Peters to give us the perspective and the background on the proposed amendments.

Mr Erik Peters: Thank you, Chair. What I would like to refer to specifically is essentially appendix 2 to the document that we gave you. What this appendix does is it identifies the paragraphs. We, not all being accountants in my shop and not lawyers, were not presumptuous enough to draft actual wording, but we are just identifying the sections of the Audit Act that may be affected by amendment. Also please refer to appendix 3, which is the Audit Act itself. So let me just, very quickly, walk you through what we're talking about.

Firstly, in section 1 of the Audit Act you find the definition of an inspection audit. I should point out that out of all the provinces where the legislative auditors—sometimes they're called auditor generals and in other cases provincial auditors—have these inspection rights for grant recipients, Ontario is the only one which has restrictions in it. In other words, Ontario is the only province where it says that we can have only access to their accounting records.

British Columbia, Manitoba, Quebec, Nova Scotia and Prince Edward Island are the other provinces that have these provisions that they can look at the books of recipients of government funds, and in none of their cases is there a restriction as to the kind of records to which they can have access. In other words, in those provinces they have relatively free access and can carry out their duties under the Audit Act with respect to those recipients.

If we had a choice of amending this, if this were one of the ways of going, then we would be saying that inspection audits should be audit examinations in which the auditor has access to all records required to carry out his duties under the Audit Act; in other words, so that the full scope of audits that we can conduct under the Audit Act could also be carried out with respect to grant recipients.

Mr Chair, if somebody wishes to interrupt with questions, I am certainly free to entertain those.

The second area where inspection audits are mentioned is in section 10.

The Vice-Chair: Is that in appendix 3?

Mr Peters: I apologize. I stand corrected. Inspection audits are not referred to in section 10. However, section 10 deals with access to information and currently reads, "Every ministry of the public service, every agency of the crown and every crown controlled corporation shall furnish the auditor with such information..."

One other way of dealing with this is to just identify grant recipients as an organization that shall furnish my office with the information we require. So that would be another way of dealing with the situation and then the lawyers will have to give us advice as to how to do it. One may then want to wish to take out the definition of an inspection audit and take the word "inspection" out of section 13, which I'm coming to in a moment.

So these are some of the technical ways of dealing with it. In a way, I view the Audit Act as a very balanced document. It gives us, in section 10, very sweeping access to information. It says really that whomever you audit, they shall give us all the information we require to carry out our audits. But why I call it balanced, it then says very specifically what we can do with the information; in other words, it's very specific on us. It says, okay, once you get it, your people have to take an oath that you cannot divulge the information, you cannot discuss the information unless legally required to do so.

Secondly, it says very specifically, and I believe it's subsection 27(2), and I'll let you find the spot, that we shall preserve the secrecy with respect to all matters that come to our knowledge in the course of the employment or other duties under this act and shall not communicate any matters to any person, except as may be required in connection with the administration of this act. In other words, it's so binding right now, if this section weren't there, I couldn't file an annual report, so it gives me the freedom to issue an annual report.

1010

Any proceedings under this act, in other words, when we pursue an audit issue, we are allowed to disclose to the auditee what we have found and what our concern is—or under the Criminal Code of Canada, of course, if we find a fraud situation, for example, or a violation of the Criminal Code then we can alert the authorities of that particular situation. But that's what I mean by the balance. Section 10 says you can have all the information you want, but you can only use it for these purposes specified in the act.

Mr Bruce Crozier (Essex South): Mr Peters, section 10 and perhaps section 27, would it be written in such a way—I think we briefly discussed medical records yesterday—to exempt personal medical records, that sort of thing? Would it have to be explicit in there that you

would not have access to those? I think you said you really don't need them. How would that be addressed?

Mr Peters: I think we should hear the privacy commissioner on that to explain to us how we best do it because we certainly would like to be able to access them for statistical purposes, in other words, to assess the procedures that are followed in amassing medical statistics. We don't need to know the individual's name or whatever, but we would like, if somebody says, "We did 17 appendectomies," or something like that, that we can find a record that they actually did an appendectomy, if need be. It's, again, a matter of need.

What is of interest is that there is a little bit of a widening of a window in the FOI, the freedom of information act—not necessarily brought in through Bill 26 but brought in through practice—and that is that some rulings are now being made, if somebody wants the information for what is called a frivolous or vexatious reason. I doubt you remember one case where somebody asked the police department of a town as to how often they clean the latrine and wanted to have all the records, or something like that, that at one point somebody can just say, "Hey, wait a second; what's going on?" But essentially the freedom of information act has not focused on need at all. If somebody asked, they got, unless the recipient of the request availed themselves of some of the sections exempting them.

This matter of medical records is not in a way essential to our request to amend the Audit Act, and we would be very happy to accommodate any safeguards that the legislators would like to put into the legislation that we do not misuse this right of access in any way.

Mr Crozier: I think that addresses my point, and your comments about having the privacy official advise us on that would be appropriate.

Mr Bill Vankoughnet (Frontenac-Addington): Mr Peters, would there be any distinction between what we refer to as public funds—which I have no objection, of course, to you auditing—but how far would that go to private funds? For example, a trust or foundation, would you have to audit that also, or whatever they had in there to show that they came from some other private source, would that be sufficient?

Mr Peters: Not directly on the audit. What I tried to point out yesterday on that issue is that for university foundations, for examples, there are certain audit rights already built into the legislation. I'm not aware, and I stand corrected if somebody finds out, of any legislation that allows us to get into foundation records.

What we were also referring to, though, in response to Mr Hastings's questions, was that if we can establish a direct relationship between the funding of a foundation and government funds—in other words, a hospital takes funds out of the operations of the hospital and puts them into a foundation—I think the legislators may very well be interested in having us pursue the use of those funds. But that is up to you in the legislation that you would like to carry out. Currently, that's not in the books.

Mr Gilles Pouliot (Lake Nipigon): You will recall, Mr Chair, that yesterday we made a rather, if not passionate, certainly sincere plea for what has just been addressed by Mr Crozier, with caution not so much as to

the ability of Mr Peters at present, of the office, to seek information—I think you do address that. You need to shed the shackles, if you wish, to have more latitude. We had no quarrel with the endeavour and endorsing the changes to give you the tools to do that. Our caution, and our only caution, is once you have attained that, once you've reached that, once you have the information, what to do with it, and that's refreshing, so we certainly will side with Mr Crozier and some other members, I'm sure. That's exactly what we wanted to hear and very well done, very well said. That's all we have to say.

Mr Peters: I'd like to then carry on to section 13 of the Audit Act, if I may. Let's for a moment take a look at subsection 13(1), which says that, "The auditor may perform an inspection audit"—and that's where the word is used—"in respect of a payment in the form of a grant from the consolidated revenue fund or an agency of the crown and may require a recipient of such a payment to prepare and to submit to the auditor a financial statement that sets out the details of the disposition of the payment by the recipient."

These provisions are clearly written with the intent of the inspection audit being limited to accounting records, because the corollary reference is then made here to financial statements. As I pointed out to you yesterday, accounting records may very well show the disposition, but if we wanted to get into other underlying information which caused the decisions or on which the decisions were based to dispose of the funds in a certain manner, we could, under the current writing of the act, be stopped from taking a look at that information.

For example, donations were mentioned, where somebody had said, "I want to make a donation so that you can spend it on palliative care." We may have difficulty accessing the letter of that donor to determine that. All we have is an accounting entry that says, "Look, we were instructed and that's how we went," and then we say: "Well, how did you make that decision? Do you have any evidence?" We may find a break in the system if we do not have that access.

Mr Gary Carr (Oakville South): As you know, the government, in some of the statistics you gave us yesterday in terms of the block funding and so on in the grant structure—I think some of that maybe even changed from what you'd proposed and put in yesterday, and I think we'll see more and more of just saying to municipalities, as an example, "Here's your money." I'm in favour of that, by the way, and I hope even at the federal level that will happen, where there will be less strings tied to the provincial government.

In doing that, it makes it a lot more difficult for your auditing process, because if we give Metro X amount of money—before we were giving to specific programs. It gets very, very complex, particularly with the numbers in Metro, and I use the municipality as an example. Have you found out how you can balance doing the audit and sort of trailing the money out of a province when you go to block funding, which can be very, very, complicated and big, big numbers in a place like Metro? And even school boards are very large.

If we're going to just give them a certain amount and say, "Okay, you spend it the way you want," how do you

see yourself being able to follow that trail of money throughout the system? It's difficult now, but I suspect it will get more difficult. Do you see a problem in that area? How do you plan on dealing with it?

1020

Mr Peters: I see both a problem and a solution, if you will. The way I view it is that if the government, on one hand, goes to a method of grant payment where the government says, "Look, the only thing you have to prove to us is"—for example, say, a welfare recipient. "All you have to prove to us is eligibility, and we give you the money. You get the money, a stated amount, and as a government we back off." We have done our job as a government, and the bureaucracy has done its job. It has just determined that that person is eligible to receive this particular grant. That's part of the solution.

I think when I looked at the fiscal outlook statement that was made by the Minister of Finance, it had an interesting, if you will, interplay that we will be watching very carefully, because on the one hand the statement did talk to block funding—in other words, giving grants without strings attached—but in other sections of the document there was talk of strengthening the accountability. What we will be pursuing very closely in this audit, both as an office as well as if you decide to amend—and I would like you to amend—the Audit Act, is how we do it. In other words, we would have to take a look at virtually every grant and say: "What did the government say about this? Did the government truly put a document into being that says we only really care about eligibility?"

For example, just to use an illustration, if the government were to decide to give municipalities a per capita grant—in other words, what they were saying is, "Look, you get this money because you're a municipality, and the amount of money is simply determined on how many people live in your municipality"—and after that there's nothing, I would be wasting taxpayers' money if I went in to audit, because what am I auditing against? The government has not set out any criteria at all which I could use to determine how they use it. It said there are no strings attached. Essentially, you get the money because you are a municipality of a certain size. Full stop. Over.

But if, for example, this were done under the Municipal Affairs Act—I'm not sure of the exact wording of that act—and it said, "We want you to spend this money to meet the objectives of the Municipal Affairs Act," then all of a sudden we had a set of criteria and we may be responsible for the audit.

I agree with you. Your point is we will have to look very carefully at what audit techniques we're going to use, because I can pull out of my wallet two loonies and hold them up and I can't tell which one was given to the municipality by the province and which one was given to the municipality from property taxes. So these are all decisions made by their elected officials or by the bureaucracy of the municipality. So we would have to very carefully develop audit techniques that actually deal with the decisions that were made, as opposed to the funds themselves. So in a way I'm saying the solution is, once the decision is made, we would certainly take a close look at the budget when it comes down from that

perspective and be saying, how far did the government go in removing the strings and what strings did they put in?

Mr Carr: Just so you know, I'm in favour of giving you the expanded powers and I think it's a good idea. I also, though, believe that probably the single biggest factor to ensuring the money is spent properly and efficiently is because of the dramatic cutbacks and the downsizing. That's forcing every municipality to go line by line with gut-wrenching decisions, as it will be with school boards. It's ironic that that will, I think, get more efficiency than any of the auditing techniques that are out there. Having said that, I still think you need the expanded power to be able to take a look at that.

But I can tell you this. After we go through this process, the municipalities and school boards—some who have come from municipalities will know that the decisions on looking for the waste and inefficiencies are not just being done by the auditor; they're being done by every trustee, every municipal official, every fire department chief, right through the system. In some respects that's good, but I still believe we should be able to give you expanded power to look at it. I guess you're looking forward to the type of techniques that you can use to try and follow some of this money through.

The good news is that because of the reductions, everybody in this province is now doing a lot of what you do. They are reviewing plans, and I know in our ministry they're reviewing what their mandates are and re-reviewing them in light of fiscal necessities and spending priorities. So it will be a difficult time but I appreciate what you're trying to do and I think the things that you're asking for, this committee should give you.

Mr Pouliot: Back on the side of caution, you do not direct, by the Audit Act, the Legislature; you work for the Legislature. Your job is not to see what measures should be redefined or programs eliminated. When you enter this arena, you're often dealing with elected bodies which have their own accountability system. They have their own mechanism, if you wish. Not all the money they get comes from provincial grants. That has to be blended, to be understood.

Where I live, I vote for the reeve and council and I also vote for the school board, as a citizen and taxpayer. They conduct their own affairs. They come knocking on my door twice a year, for general purpose, through the interim tax levy—they go to the maximum as fast as they possibly can—and then they come back for the school and general purpose, the final adjustment. Twice. We sign two cheques. The municipality collects "on behalf of," to avoid duplication, but it's been a battle royal only in style. The bottom line hasn't changed since the word go. It's always the bloody—and I'm kind and benevolent here—the bloody school boards have really nixed the ability, restrained the ability, to provide general purpose. Consequently, in small towns you end up paying 50%.

Twenty-four per cent of the municipal expenditure, the fascinating world of sewer and water, comes from grants. Where do you stop? The rest of it, it's the knocking-on-your-door revenue style. Only 24% of the general purpose levy comes from a provincial grant, and now it's going to be a block grant, giving them more flexibility. So as you enter your value-for-money audit, I'll be

curious as to what the underline is. Value for money, okay, but, "This program should be continued?" That's the government.

Yet I don't want the exercise to be that every time there's a new government, and sometimes a new auditor, the Audit Act amendment comes back on the table. I know it's not a dinosaur document and it should be given life from time to time, but there is a sense of *déjà vu*. They all try it, and I think that's good, and sometimes they should succeed. But I err on the side of caution to say that's okay, but others have a jurisdiction as well. We vote for the school board, we vote for the municipalities, and they have "other sources of funding" as well, and that has to be taken into account. They have their own accountability system and accounting system. They have their mechanism, and they're going to cry blue murder if we interfere too much, or it's going to be seen as being interfering. So I put on my municipal councillor hat of yesteryears and say yes, do it, but please—

The Vice-Chair: Don't do it to me.
1030

Mr Peters: If I may comment on that, we are quite willing, as an office, to err on the side of caution. What we do have to take into account, though, and very carefully take into account—talk about the education system, for example. The Education Act in the province of Ontario is an act passed by this Legislature. It is an act that creates the school boards. The responsibility for the quality of education that is provided to school children in Ontario and at the post-secondary level rests with the Minister of Education under that act. The role of the elected officials is as determined under this act and as outlined under this act.

The question that still must remain is, to what extent is my office an instrument of the Legislature that can ensure—and let me remind you, in a way, of two things. We have never said that we only want to do value-for-money audits. We have always said that we want to do two things: compliance audits and value-for-money. What I mean by compliance is essentially compliance with the legislation—do the act.

Before this committee—let me be illustrative for a moment—when we brought up in our 1993 report that special education was provided in a totally inconsistent manner across the board, the government itself gave the same amount of money to each school board to deal with children with special needs, yet every school board had different action resulting from that. Some school boards dealt with special education only where children were gifted; others dealt only with special children who were on the slow learning side; others had disabilities or whichever. There was inconsistency.

It was around this room and it was a televised session, probably one of the least partisan meetings that I can remember. There was unanimity among the members on this committee, saying, "Look, this is something you really have to look into," and I had to say to them: "I can't, because I can only look at the accounting records. I cannot look at the records that a school maintains or a school board maintains to determine how they are actually allocating and how they are dealing with these special-education dollars they were receiving."

I use this illustration only to say that the brakes are on. We will be using virtually all the other sources that are available. The school boards all have auditors who audit the accounting records already. That's why I don't want to do it. There's no value added in me going in because there are already other auditors who are doing that.

I could ask on your behalf, but I can't right now, for example, when those auditors do the financial audits of a school board, to also audit whether they are in compliance with the Education Act and expand the audit scope and ask for a separate report to my office as to whether there's compliance. If we get into the picture of doing value-for-money audits—as I pointed out to you before, those are very staff-intensive audits; they cost money. If we wanted to force a school board, for example, to have a value-for-money audit done by a private sector accounting firm, that is money that goes out of the system.

Mr Pouliot: We don't have a child psychologist in Manitouwadge. I'm happy to know that we should get one.

Mr Peters: Well, fair enough. Point made. We would look at all the sources and we would look, of course, at the initiatives that are taken in downsizing. So in a way, the brakes are totally on in terms of caution in that regard, but the one underlying, fundamental issue that I'd like to raise with you, and then I'll ask the assistant Provincial Auditor to comment further on this issue, is that in compliance audits it is legislation passed by Queen's Park for which ministers are responsible.

We are quite different from the federal government in this. These are all creations of the province. Every municipality is a creation of the province, of this Legislature. Every school board is a creation under the legislation of this board. Ontario, just to put it into contrast, is not a creation of the federal government. So there is a different relationship between the funds that we receive from the federal government and the funds that this province passes down to its own creations. With that, I turn it over to you, Ken.

Mr Ken Leishman: Just a few words to address Mr Pouliot's concerns, and Mr Carr referred to it earlier too. We recognize that municipalities and school boards have their own elected representatives. In the case of unconditional grants to municipalities, which have been made for years and years, we are not interested, and have never been interested to date, in doing an inspection audit of those funds because they are unconditional.

If the province gets into block funding, with no conditions attached, I wouldn't think they'd be any different than unconditional grants. But in the case of conditional grants going to school boards, we realize they have their own elected representatives that they are accountable to. On the other hand they are also—I think they recognize—accountable, and they should be accountable, to the province for the funds they get from the province. So that's why we would want to go in there. Is that okay?

Mr Peters: Certainly.

Mr Monte Kwinter (Wilson Heights): I have to apologize. I haven't been sitting in on these committees, so I don't know a lot of what's gone before. But just this morning, as I've been reading through the material, in

principle I have no problem at all with a compliance audit or a value-for-money and management audit. I'm just thinking of the practicality.

A compliance audit should be a relatively simple thing as far as the concept of it. You know what the legislation says, you go in and look at areas that by experience or by investigation you find could be abused, where the receiving agency decides: "Notwithstanding that the money is supposed to be for this, we'll use it somewhere else. Who really cares? We're not squandering it. We're just using it in a different way." That may be contrary to the legislation and you want to address that.

Not the problem, because I'm totally in agreement with you, but the difficulty in the value-for-money and management audit is, to my mind, it's a given that if you hire an administrator, he's supposed to do his job. If he doesn't do his job, then somewhere along the line it should be quite apparent to the board of directors of the agency, to the local politicians, whoever, to the auditor himself who's doing the audit, that he's not doing his job. What I would like to know is, notwithstanding that you try to legislate it, how do you, practically, go in there and say, "Here is what you must do," and how do you establish criteria that you can compare or that you can use as a benchmark to decide whether or not this person in fact has provided proper money management or value for money and that you're not just second-guessing what the local officials, the elected officials, think is in the best interests of that particular region or area?

1040

Mr Peters: A very fair question. To begin with, we are not in the business of second-guessing anybody. The one thing we certainly don't second-guess on at all is the policy side. But as far as the three main criteria on value for money that we're looking for—economy, efficiency and whether or not procedures are established and reported on to measure whether they're satisfactory to meet the effectiveness or meet the objectives that are legislated for the particular organization—in those areas we rely essentially on two things.

First, we rely certainly on what we'll call for the moment the strings that the government attached. In other words, if the government says to a school board, for example, "Here is your special-education money; you shall provide special education," the first thing we look for is, what does the act say about special education? Therefore, we develop our criteria from the legislative objectives, and we certainly agree with management on those criteria.

The second set is in the economy and efficiency area. We normally use, most often, commonly used business criteria. Just to give you an example, we have audited conservation authorities, which we can audit; they're not grant recipients. For example, one of the areas we would look into is whether they give all their contracts under a proper bidding procedure, whether they call for tenders. What are the bidding processes? How do they go about that? A really common business approach to the economy would create the second set of criteria: What do we know are good business practices?

One very important feature on criteria is that we always attempt to agree with the managers on the criteria.

We are very open about that. We are saying: "These are the criteria we are planning to follow. Do you have a problem with that?" Very often we use their own criteria. If we work to get, for example, access rights to carry out an audit on a hospital, I have no specialist on staff but I'm quite sure that the executive director and the executive team of a hospital are very well experienced and have their own set of criteria by which they manage. We would take a look at those and we would work with those, and we would look at such things as, for example, if the Ontario Hospital Association sets out criteria as to how a hospital should be run etc. So there are many sources that we use, but the most important feature of all those sources of criteria is essentially agreement with management.

It has happened, and then we have reported it, where we had no agreement on the criteria, where they disagreed with us. They said, "These are not our criteria." Then we report it and we come back to the Legislature and say, "Here's a situation where they disagree." Special education is a good example. We reported to you that the definition of what a child with special needs is had not been updated since 1984. Effectively, they did not have current criteria to determine what children were in need of special attention. They had not done so for nine years, and we felt that was out of date. So our criteria were not met and we had to report it as that. Does that answer your question?

Mr Kwinter: It does, but it raises more questions, and you raised what I think is a perfect example of my concern. There's no question that if funds are supposed to be allocated for special education, then you have every right to go in and see: Have those funds been used for special education, and are they using the criteria of what special education is? Are they using it, but not using the total ambit of what special education is?

But when you talk about the hospital and you say you have no particular expertise and you go in and say to the hospitals, "What are your criteria?" and the hospital says, "These are our criteria," and then you go in to audit to see whether or not they are following their own criteria, if you're following their criteria, that's fine. My concern is, then I ask myself, if they're setting the criteria, why do they need you to come in and check to see if they're following their criteria? It's their criteria.

Secondly, if you say, "Well, those are the criteria you're using but I don't agree with them," and on the other hand you say, "We don't have the expertise to decide what the criteria are," that gets back to my first question about the second-guessing. I just feel that it's a very difficult area to legislate because it's a moving target. Every situation is going to have to be tailor-made to that particular situation.

As I say, I'm not in any way critical of your desire to do it. I'm just trying to figure out how you can do it in such a way that it is consistent across all like institutions. You go to one hospital and these are their criteria; you go to the next one and they say, "We have different criteria, we have a different patient mix, we have a different environmental situation, we specialize in this, that other hospital specializes in something else." How do you do it, and how do you do it in a legislative way?

Mr Peters: Let me answer this on two levels. In the legislative way, the way we are suggesting is just let us have access to the broader bases of information than just the accounting records, because right now we can't do anything, virtually, beyond what is already being done for these organizations by the external auditors. We cannot help the Legislature to come to grips with the issues of economy, efficiency and actually whether they are meeting their stated objectives. The technical way of dealing with the legislation is to simply include the grant recipients in the legislation and give us access to the information.

But to give you the satisfaction I would demand and I'm sure Ken would demand—between the two of us we are essentially running the office, with the other people in it of course—the point is that where we are out of our depth, it's within our purview to engage specialists who can help us with that, and the other part that we often follow in these situations is what we call best practices. In other words, we identify what are best practices.

We would probably be fairly reluctant to audit, say, one school board at a time, but we may audit up to three school boards and go, with their agreement, into what are these boards doing well and what are they doing not so well. What they're doing well then becomes their best practices as criteria. We very often use that as another practice. In fact we have reported on that very often. Information technology is one of the areas where, for example, if we identify somebody who does a job particularly well, then they virtually set the standard or establish the criteria against which we can audit. So there is a raft of avenues open to us and we do them all.

If in value-for-money audits, for example, to give you some idea, the planning portion of the audit is vastly longer than it would be on an attest audit. On an attest audit virtually all the criteria are set by the Canadian Institute of Chartered Accountants or best practices in other governments and elsewhere and they're easily accessible. In value-for-money audits we spend an awful lot of time planning and surveying the situation, reading literature, trying to find out where the sources are for good practices, what are good sources for criteria.

It's a fairly complex audit, and that's why I'm saying it's very staff-intensive, and we only will undertake it if after that preliminary survey we really feel that we can add value to the process. We'll cease and desist if there's no point in going ahead. We feel we'd be wasting taxpayers' money if we did.

That helps you a little bit more?

Mr Kwinter: Yes.

Mr Crozier: Just a question, Mr Peters, that the other members may be interested in. Do you know of any boards, agencies, that now, on their own initiative, have value-for-money audits conducted as well as just their regular financial audit? Do you know of any?

Mr Peters: Let me answer that in another way. In the three years I've been Provincial Auditor, we have been three times approached by school boards and by a university interested in us doing a value-for-money audit of the organization in the education area. We had to turn them down, in the school board case largely because they happened to be school boards that were not funded by the

province. They were boards that were essentially funded out of their own property tax bases, so I had to say, "Look, as the Provincial Auditor, I cannot. You are not funded."

Then in the other cases we had to turn them down because they are organizations under which we only have inspection audit rights and I had to point out to them that they already had external auditors who were conducting the attest audits. I'm not aware of other organizations—certainly we are conducting audits of crown agencies and everybody else. The only block that is outside our purview right now are these grant recipients.

1050

There certainly seems to be a wish by these organizations—as late as two days ago I had a fax from a trustee of a school board, which is 40% funded by the province, saying, "Would you consider doing a value-for-money audit in our organization?" I again have to say, "No, I can't help you." Does that help?

Mr Crozier: No, but I appreciate your answer and the way you've answered it. I thought you might be aware of some who have gone ahead on their own initiative and at their own cost who may be at present having value-for-money audits from an external auditor.

Mr Peters: Ken Leishman, the assistant Provincial Auditor, just reminds me, yes, the Workers' Compensation Board is having external auditors carry out value-for-money audits. I think currently a legislative proposal, Bill 15, has had at least first reading. Bill 15 makes a provision that these audits now—

Mr Steve Gilchrist (Scarborough East): It has been passed.

Mr Peters: Oh, thank you. I'm out of date and stand happily corrected. I'm not sure whether it was passed, but the version I saw had a provision in it that the value-for-money audits conducted by the external auditors should from now on be done under the direction of my office. I'm not sure whether that is in, but that was in the version I saw. So it's being done.

Mr Dave Boushy (Sarnia): Mr Peters, are you concerned that perhaps if you're given that much power to audit the school boards—in some cases I believe they're doing things in their own way much cheaper and more efficiently than our way, and if you are given that much power to audit them, they would revert to our way of doing things that's not as efficient as you would want them to be.

They are closer to the system; they are doing things according to what's best for them. Maybe as far as we're concerned, we're too far away from the system. Are you concerned when they are obligated to be audited, that they shift their way of doing it and it will be more expensive, less efficient than we want them to be?

Mr Peters: Let me answer that in three ways. It's a very good question. The first answer is, I would very much like to encourage the committee to hold public hearings on this and invite school boards to speak to the issue and again also if you could invite any one of the CHUMS group—colleges, hospitals, universities, municipalities, schools—I really feel that it would be quite appropriate to hear from them and to hear their side of the story. If you would like to make a resolution to have

me move ahead and amend the Audit Act, then it would be very worthwhile hearing from these organizations. That is the first statement.

The second one, if I may turn it around slightly, yes, I would be very happy if those audits made a difference for the better. I would be concerned if they made a difference for the worse. There is an idealist in me a little bit. I'd be absolutely delighted if I could conduct an audit of a school board and have a nil report: there's no recommendation to make, they're doing fine, thank you. It would be delightful.

Mr Boushy: Because I hear quite often municipalities and school boards tell you: "We do things better than the provincial government is doing. It's more efficient."

Mr Peters: I certainly wouldn't get into the comparative quality of government levels in those audits, because those are very often policy decisions, and I would stay out of this. But there are very basic difficulties already, many of which we have to address.

Let me just give you one that we reported in our 1995 report on the current accountability framework that exists between the Ministry of Municipal Affairs and the municipalities. As you know, it is an area that has been studied virtually to death. We have almost monthly reports coming out on dealing with those relationships, and they identify benefits of doing things.

Our concern was that things didn't get done. There was no action taken on the many reports that were out and the relationship was certainly in some difficulty. We had the disentanglement and then re-entanglement and unentanglement and all these various levels of how to deal with municipalities. One of the things we certainly hope, as we hope in everything that my office does, is that we are becoming a catalyst for action for the better. Hopefully, these amendments to the Audit Act can fall into that category. That's our fondest hope to get out of it.

The Vice-Chair: I just have a question on procedure here. You mentioned and we have talked about maybe inviting the privacy commissioner here and also inviting the MUSH or the CHUMS to come and make presentations. Then you talked about the possible resolution about amending the Audit Act. Do we call in the witnesses first and then make a resolution to amend the Audit Act? What is the process as you see it?

Mr Peters: It's a very good question. Very deliberately in my initial comments yesterday morning I outlined only the principles. I thought that the drafting of the specific wording or how best to go about it in legislative ways should be left to, essentially, legal counsel.

With this call for witnesses, I would suggest that maybe we deal with the principle with those witnesses and then hear what they have to say and get into the drafting afterwards, because then we know of their concerns. However, I can see the other side of the argument, where you're saying if we are too broad in our principle we may not get very much help; if we were specific in our wording, then maybe we could have them being more specific.

But I think overall the principle itself would be served if, for argument's sake, and this I can put out to you, we were to say for the moment what we should discuss is whether the definition of an inspection audit, as envis-

aged in subsection 13(1) of the act, were expanded and we can find the necessary wording, that "an inspection audit of a grant recipient" means "an audit examination of such information as the auditor considers necessary to carry out his duties under the Audit Act," if we just put that as the wording out there and use it sort of as the skeleton on which these organizations and the privacy commissioner could hang their comments, that may be helpful to them. I'm not sure how you, as the members of the committee, would feel about that approach, but I'm just putting it out in answer to your question.

Mr Kwinter: If I can be helpful, I think that the auditor has made a good recommendation. If we leave it open-ended and bring people in, they're going to be all over the place. In my opinion, the way to go is to draft some amendments, then call them in to comment on those draft amendments, and as a result of their input you may want to modify, change or delete those amendments. But at least you have a focus point for them so they know where the auditor and the committee are coming from and looking for input from those people that are going to be impacted by it.

1100

Mr Peters: That sounds very reasonable to me.

Mr Gilchrist: I would certainly concur with Mr Kwinter. We've had a good opportunity to debate the principle behind the need for openness and accountability, and I think we would all be more comfortable if we had an opportunity to see the specific suggestions and to allow the MUSH sector to comment on it directly. No one expects, necessarily, the final draft or anything approximating the kind of test legal counsel would put the words to, but if you would be kind enough to put your thoughts down about how you would amend the relevant sections, I'm sure we could debate them to the point that legal counsel would get clear direction about our collective intent in terms of taking this forward to a final resolution.

The Vice-Chair: I've been informed by the clerk that there has been a day set aside—I think March 4—for witnesses from the transfer partners to come forward. I don't know whether that's too tight a timetable to get some kind of draft amendment together.

Mr Peters: We could probably have something in the hands of the clerk by this afternoon, if I have agreement. In the letter we wrote to Mr Cordiano when he was Chair, in May 1994, we made a proposal of wording.

The Vice-Chair: Here it is here.

Mr Peters: Yes. We would work from there. This is the definition. Can I read it into the record, Mr Chair?

The Vice-Chair: Sure.

Mr Peters: "Inspection audit" means the audit of such records and information as the auditor deems necessary to perform the duties under this act." Section 13 would then virtually automatically be amended, because that would be a definition of an inspection audit, as stated in there. Section 10 would be amended to include transfer payment recipients in the audit domain, which is currently restricted to the consolidated revenue fund and all crown agencies and corporations. Grant recipients would most likely go into that. Section 10 I don't think we need to deal with under this scenario. John, am I right?

Mr John Sciarra: It might be helpful.

Mr Peters: We would have some wording changes to section 10, but they would not be such that they really require comment. They would just be companion to this amendment of the inspection audit. And the examination under oath, which is in section 14, would also have to be expanded to cover the grant recipients.

That would be fundamentally the amendment with which we go forward. I'm sure the clerk can give you the wording, and if there is any debate or discussion on this, I'd be open to suggestions.

The Vice-Chair: One thing might be helpful in terms of keeping people on track and letting people understand the direction the auditor wants to go. Touching on those areas Mr Carr referred to, that you're getting more block funding, it is not the intention of the auditor to get into the unconditional grant area. It's basically to focus on those narrow parameters that deal with provincial mandate. In essence, we're not going to be on a fishing expedition; we'll be able, with the changes coming forth from Bill 26 etc, to maybe have more strict focus. This is so we don't get the recipients, the transfer partners, all thinking there's going to be this contradiction taking place. Somehow, in a preamble or in terms of any communication we send forward, that should be made very clear.

Second, in terms of looking at hospitals and treatments etc, that also should be clarified so there is clear understanding that this is a statistical overview that does not deal with any individual records or anything of a private, personal nature.

If those preambles are put into any draft, it will avoid all kinds of confusion out there of what our objective is. That's my suggestion that might help in any communication.

Mr Kwinter: It would seem to me we could eliminate a lot of work if, in every section and section 13 where it refers to an inspection audit, the word "inspection" is just removed and somewhere earlier in the act there is a broader definition of what the audit encompasses. That's all we're talking about. An audit is an audit, and all we have to do is go to the act to see what is the audit, and what is the scope of the audit. All that has to be changed is what the scope of the audit is. It's just a matter of removing the term "inspection" and just saying it's an audit, and all you have to do is refer to the act to see what it encompasses.

Mr Peters: It's wonderful. I didn't dare push the envelope that far. I'm very encouraged by your comments. If I had my druthers, to have the word "inspection" removed and have an audit defined as "an audit means the examination of such records and information as the auditor deems necessary to perform the duties under this act," I'd be in clover. I'd be very happy with that. In other words, we'd have only one definition of "audit" and remove that; and in those sections where the

audit domain is defined, we would have the grant recipients identified in addition to the consolidated revenue fund etc as an entity subject to audit. I think that would be very helpful.

With respect to the suggestion of medical records and others, there is already a raft of confidential records we have access to and use only for statistical purposes; for example, the filings by corporations with Consumer and Commercial Relations, which they consider on their own, where we use the statistics or whatever and how they're used. "Medical records" I know has this ring; people get more excited. In that regard, maybe we could just advise the people that we will be hearing from the privacy commissioner and that his comments will be taken into consideration, in answer to that question.

I would be delighted to get rid of a distinction between an inspection audit and an audit, rather to include these sections in the domain, for a very straightforward reason. The fundamental reason this whole proposal is being made is, as we have pointed out in schedule 1, \$25 billion a year are turned over to other organizations by this government, and all of that money is turned over to achieve objectives set out in legislation passed by this Legislature. I still advocate very strongly that this Legislature should have all the tools at its disposal to ensure that the moneys it spends or turns over to anybody are paid out and are spent for the purposes intended by this Legislature. That's the underlying concept.

Mr Crozier: That would mean that whether you do a value-for-money audit or a compliance audit really wouldn't matter. That definition would cover both.

Mr Peters: That's right.

Mr Crozier: Second, will we be hearing from the privacy commissioner prior to the March 7 date?

The Vice-Chair: We're not sure of the exact date right now, but we have a number of dates set aside at the beginning of March where we're going to try and get the privacy commissioner and some of the CHUMS in here.

Mr Crozier: Perhaps the subcommittee could deal with the timetable.

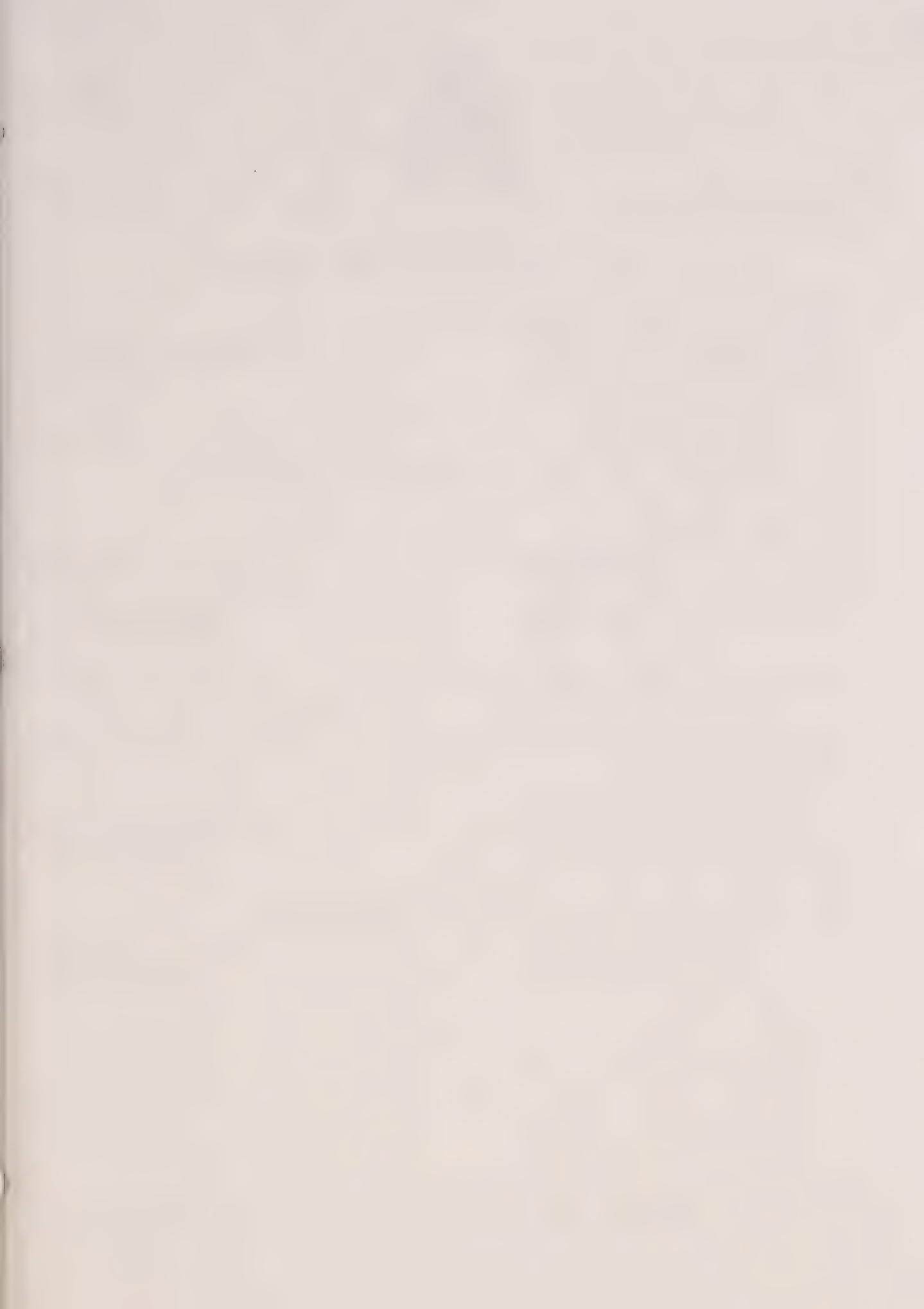
The Vice-Chair: Yes. Unless there are any further questions or discussion, we've got a pretty good direction in terms of where we're going and our objectives. We're going to ask the auditor to proceed with some kind of draft changes and then we will invite the transfer partners and the privacy commissioner to appear before this committee on the March dates. We will meet again on February 28, the next date for this committee.

Mr Peters: Mr Chairman, before we close, may I ask a quick question? I made an offer to put something on the table this afternoon. Could we, by way of consensus of the committee, arrange that we make a proposal of specific wording to the subcommittee and that the subcommittee meet at its earliest convenience?

The Vice-Chair: If that's okay? Yes, that's fine.

The committee's adjourned till February 28.

The committee adjourned at 1111.



CONTENTS

Friday 2 February 1996

Audit Act amendments P-119

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Chair / Président: McGuinty, Dalton (Ottawa South / -Sud L)

Vice-Chair / Vice-Président: Colle, Mike (Oakwood L)

Agostino, Dominic (Hamilton East / -Est L)

*Beaubien, Marcel (Lambton PC)

*Boushy, Dave (Sarnia PC)

*Carr, Gary (Oakville South / -Sud PC)

*Colle, Mike (Oakwood L)

*Crozier, Bruce (Essex South / -Sud L)

*Fox, Gary (Prince Edward-Lennox-South Hastings / Prince Edward-Lennox-Hastings-Sud PC)

*Gilchrist, Steve (Scarborough East / -Est PC)

Hastings, John (Etobicoke-Rexdale PC)

*Martel, Shelley (Sudbury East / -Est ND)

McGuinty, Dalton (Ottawa South / -Sud L)

*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

*Skarica, Toni (Wentworth North / -Nord PC)

*Vankoughnet, Bill (Frontenac-Addington PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Kwinter, Monte (Wilson Heights L) for Mr Agostino

Also taking part / Autre participants et participantes:

Office of the Provincial Auditor

Peters, Erik, Provincial Auditor

Leishman, Ken, Assistant Provincial Auditor

Sciarra, John, executive assistant

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

AZON
XC21
- P72



P-9

P-9

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**Standing committee on
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comptes publics**

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Wednesday 28 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Mercredi 28 février 1996

The committee met at 1002 in room 228.

The Chair (Mr Dalton McGuinty): Good morning, ladies and gentlemen. Welcome to the standing committee on public accounts.

I understand, Mr Agostino, you have a motion to raise.

Mr Dominic Agostino (Hamilton East): I would like to put forward a motion that the standing committee on public accounts be moved to an offsite location as a result of the labour dispute here at Queen's Park. I'd like to speak to that.

What is happening, of course, as a result of the OPSEU strike puts many of us, on principle, in a very difficult position. As a legislator, an elected official, I have to choose between crossing a picket line or allowing the voice of opposition in committees to go unheard. That is not something I'm very comfortable with; that is not something I enjoy doing. I spoke to the captains on the picket line this morning and they all encouraged us and asked us to go in and sit on committees in order to do our jobs as members of the opposition.

I hate like hell to have to cross a picket line of striking men and women who are out there doing what they are legally entitled to do in the province of Ontario if they choose to do that. It just very much smacks against the principles of collective bargaining, the principles of the rights of strikers, when elected officials have to be forced to cross a picket line in order to come in and do our jobs, and I certainly hope that government members who control this committee will understand that.

Everyone has to make their own choice as to the crossing or not crossing of a picket line. For me, it's very difficult. The men and women I represent in Hamilton East, most of them union members, understand very clearly the need for me to do my job here at Queen's Park and the need for me to represent their point of view at Queen's Park and to do that through a committee.

At the same time, I don't want to be forced into a situation where I have to go against what I believe is fundamentally wrong, and that is to cross a picket line. If it were simply to go into my office, I would not do that, because I can find other places to work out of. But since the committees meet here, I have no choice.

I would ask this committee and members of the government to consider supporting the motion to allow the standing committee on public accounts to move offsite somewhere else and to allow us to carry on our business there without putting most of the opposition members in one hell of a difficult position.

Although we do have the support of the people out there who have allowed us and have said, "Yes, go in and do your job. We want you to go into the committee," it makes it very difficult for me and for many of us, and

I would hope the members of the government understand that and would support this motion to move this committee offsite.

Mr Gilles Pouliot (Lake Nipigon): Good morning, members of the committee. Mr Chair, is it appropriate to speak to the motion put forward by Mr Agostino?

The Chair: Yes.

Mr Pouliot: I too, and who wouldn't be, spontaneously this morning was both appalled and shocked at the confrontation—and I wish to keep it in the context; a confrontation need not be violent. In French we say it's a prise de position. In French we also refer to this kind of endeavour or exercise as action directe, made possible by—some will say, I've heard it said—agents provocateurs. The systematic and deliberate action of the present regime, of the régime du jour, makes it possible for us, its brothers and sisters who are out there—it's uncomfortable to say the least, philosophically unacceptable to some, at best a situation that should not be allowed to take place.

The right of people to organize, the right of people to withdraw their labour in a legal framework is a long-established tradition. Intelligent discontent is the main-spring of civilization. If it had not been for those men and women, we would have to turn the clock back. If there is an opportunity, addressing the resolution, to do things without putting ourselves or putting others under equal state of siege, I think we have, as members of the committee, the right to address the mandate.

We sit on committee, we're elected to do that. But we also have the obligation to seek every opportunity to do so as per the resolution. Imagination—well, let's say, just plain common sense—would ask that the committee seek another venue so we can hold our meeting there.

Mr Dave Boushy (Sarnia): I happen to disagree. I think this is our home, this is a public place. The NDP and the Liberals have had governments in the past. They had picketings, and I'm sure the opposition did not leave this building to go somewhere else. If we do this, we're going to set a precedent for other committees. We have been meeting here all this week, the last two days committees met. They had no problem. What's going to happen March 18 if there's still a strike? Should we not all meet as a government to conduct the business of the province? I think it would setting a very dangerous precedent to do that and I would oppose it.

Ms Shelley Martel (Sudbury East): I have to point out to the Conservative members that this is the first time that OPSEU has been on strike in the province of Ontario. Before both previous Liberal and Tory governments did not want to give OPSEU members the same rights as other people who have collective agreements in

this province and allow them to exercise their democratic right to remove their labour when there is a legal strike going on.

So in fact the Legislature has not been picketed by its own members before, by its own employees who work here. This is the first time in the history of the province that this has happened. I think all members would feel much more comfortable if we were able to respect what is happening at this point in time and if we were to support the motion that has been put forward by Mr Agostino that we proceed to meet somewhere else. I think that makes good sense. I don't see why you would be so worried about any kind of precedent.

With respect to this being a public place, let me remind you that your government has made it more and more impossible to access this public place since you have been here. So I'm a bit surprised today to hear you use that as an argument as to why we should continue to meet when there's a legal strike going on.

1010

Mr John Hastings (Etobicoke-Rexdale): First off, I think the principal reason for having our committee meetings here is that this is the Ontario Legislature. This is where committee meetings are held; this is where the public, whatever section of the public, would want to come and make their views known. We have a committee meeting in front of us here today with a list of deputants.

Another fundamental reason we have to remember is that even if we examined hypothetically the possibility of moving offsite, where is the guarantee, where is the agreement going to be worked out in Mr Agostino's motion, unless he's willing to make an amendment to it, that there would be a written agreement between OPSEU and this committee and/or other committees in terms of where the site would be and that they wouldn't picket it? How are we going to manage the costs of this alternative site if we're going to consider all these possibilities?

A third practical consideration we have to examine very carefully is that this committee in and of itself, as I understand it, would not be able to make a decision to move to another site today but could only consider the possibility of moving to another site, because all the other committees would have to look at this situation in terms of when they sit. It's not just this particular committee that's impacted by this legal strike.

I will move that we refer this particular item for consideration to the Speaker, because I don't think, as I understand it—I stand perhaps incorrectly informed on this—any specific committee of the Legislature can in and of itself make independent decisions that would affect other committees of the Legislature in the way in which they operate.

All those particular things have to be looked at carefully in terms of how we carry on the public's business. So I would refer this motion for consideration to the Speaker or to you to take to the Speaker and the other committee Chairs as to whether in fact this alternative proposal that Mr Agostino is proposing ought to be examined.

The Chair: From the learned advice of my good counsel here, I understand that, in effect, you're not speaking directly to this motion at this time. This is what's on the table now; we have to address this.

Furthermore, as I understand it, this committee is in control of where it sits and when it sits, subject to the general agreement of the House leaders. For instance, the committee took it upon itself to decide that we were going to visit outside of the precinct; that was something we were going to do this afternoon. It's not on, but that's something that we decided we were able to do. For that reason, I don't think it's appropriate that this be referred and I think we have to deal with the motion as it is right now on the floor.

Mr Hastings: Would the Chair like to see the specific section that the clerk has which deals with independent action this committee or any other committee can take? The Legislative Assembly committee could not go to Ottawa or Quebec City to deal with the security before there was a prior arrangement with the House leaders, so the House leaders' agreement doesn't come into operation in this particular regard. But I'd like to actually see or have Mr Decker read the specific part of the standing orders that allows this committee to act in an independent fashion and which does not impact other committees of the Legislature.

The Chair: The clerk is checking on that right now.

Mr Agostino: Mr Chair, can we in the meantime not go to the first one and then proceed with that, because that would take precedence, pass to the vote and take it at this place on the first motion?

The Chair: Yes.

Mr Hastings: So what is your ruling, Mr Chair?

The Chair: I think, notwithstanding my ruling on this, Mr Hastings, that Mr Agostino's motion has to be dealt with now.

Ms Martel: Recorded vote.

Ayes

Agostino, Cleary, Colle, Martel, Pouliot.

Nays

Boushy, Hastings, Ross, Skarica, Stewart, Vankoughnet.

The Chair: The motion is lost.

Mr Hastings, do you still require an answer with respect to the query you raised earlier?

Mr Hastings: Yes, I'd like to have that on the record.

The Chair: Standing order 121(a) provides as follows: "Standing and select committees may adjourn from place to place in Ontario."

Now we can move on with the presentations.

1995 ANNUAL REPORT, PROVINCIAL AUDITOR ONTARIO BOARD OF PAROLE

ONTARIO HALFWAY HOUSE ASSOCIATION

The Chair: Today we're considering section 3.18 of the 1995 Annual Report of the Provincial Auditor, specifically dealing with the Ontario Board of Parole. If I could call upon those persons representing the Ontario Halfway House Association. Welcome to the committee. I understand we were scheduled to hear from you at 9:30, but there was some misunderstanding with respect to the

starting time, and there was a matter which we obviously had to deal with first. Now that has been dealt with, I welcome you to the committee. I ask you to put your name on the record for us and then proceed with your presentation.

Mr Thomas Allgoewer: Good morning. I'd like to thank the committee for having me here this morning. My name is Thomas Allgoewer, and I am president of the Ontario Halfway House Association. This is an association of non-profit agencies contracted by Correctional Service Canada to provide mostly residentially based services and some community-based programs to the federal offender. There are 36 member agencies operating in 22 different Ontario municipalities and more than 1,000 community volunteers involved in our programs. This includes people at the board level as well as working on the front lines.

Essentially, these services are involved in the integration and rehabilitative work because they recognize that offenders originate in our communities and they will return and frequent our streets, our neighbourhoods, our workplaces, be clients at businesses, perhaps visit our homes or even live in our homes once they are released. Though all federal offenders will not necessarily return to the community—a small group probably won't—all provincial offenders will, and in a very short time, even if they are not paroled. This community—I'm speaking about the community that is represented by the Ontario Halfway House Association and its volunteers—has taken a huge interest and responsibility to see that the likelihood that they reoffend is reduced. We represent a community that has taken this social responsibility very, very seriously.

My purpose today is to give an account of some ideas from our experience that could be applied to increase the effectiveness of the Ontario Board of Parole. My basic argument is that the performance of the Ontario Board of Parole is only as effective as the community-based programs it releases offenders to. My assumption is that the Ontario Board of Parole or another gradual release board, which is what we would recommend the board be reconstituted to form, would probably like a range of options, including residency, available as a condition of parole, as the National Parole Board presently has.

1020

Generally speaking, halfway houses are secure, controlled environments wherein counselling and programming can achieve much better results than in institutions. In general, what the Ontario Board of Parole needs is the knowledge and confidence that specific agencies and programs have the internal policies and practices that are consistent with achieving good results, especially with high-risk offenders who will be returning to our communities, and that they have qualified personnel with the means to constantly train and retrain their staff and improve their program design.

First what I'd like to do is identify some of the basic security features in halfway houses that serve to protect communities and society. These are not commonly known. Halfway houses have been referred to as subsidized housing, and we beg to differ very strongly with that statement.

Halfway houses provide essential contexts for controls, enabling offenders to reintegrate and rehabilitate in the community. Some of the basic security features in halfway houses include the following:

They very carefully screen and assess applicants. Halfway houses endeavour to ensure that residents are committed to participating in programs and are motivated to succeed.

Although there are a small group of houses that may support offenders who do not fit in anywhere else but already have been released or inevitably will be released, they're providing some additional structure and services to resourceless offenders on the streets or returning to the streets shortly.

Halfway houses liaise with the local police and with parole officers. They verify the presence of all residents with regular counts after curfew. They enforce strict curfew and leave privileges. They carefully monitor all parole board restrictions, conditions and perform special security tasks such as urinalysis testing.

They closely monitor general behaviour and attitude. They confront residents' negative behaviour and viewpoints with the intent of modifying them. They support, encourage and reward positive behaviour and attitudes so as to reinforce the positive, and they apply a range of consequences to correct inappropriate or non-compliant attitudes and behaviour. Consequences of inappropriate behaviour could lead to the agency withdrawing support and may result in parole suspension.

These are just basic security features. I haven't even begun to talk about programs that address criminogenic need, but these are generally features that you can find in most halfway houses, and I think already it's clear that this is not simply subsidized housing.

I want to talk a little bit now about programming and training. I believe that the next presentation, which is fully endorsed by the OHHA, may indicate some of the research that shows that the most effective correctional treatment programs which are intended to reduce future reoffending are located in the community. Institutions have been described by correctional staff as behavioural deep freezes, where behaviour is unlikely to change much despite programming, in part because it is too intimidating an environment to practise new ways of interacting with other people.

In the auditor's report mention is made that only 3% of the 40,000 inmates serving less than six months received parole hearings. Furthermore, Ontario placed only 12% of the inmates on register in its institutions and community programs compared to 38% for Quebec. With the closure of provincial halfway houses, one can assume the situation has only further deteriorated.

Clearly, this situation does not appear to meet the purpose of the Corrections and Conditional Release Act, which is the maintenance of a just, peaceful and safe community by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and their integration into the community as law-abiding citizens.

The OHHA thus also endorses the John Howard Society's earlier recommendation that the responsibility of temporary absence and parole should be exercised

under the authority of a single gradual release board, and again to repeat what I mentioned, that one of the options as a condition probably should be residency in a halfway house.

I'd like to add that there is now research available that sets out objective criteria for assessing program elements for risk reduction. Mr Don Andrews of Carleton University has compiled the Correctional Program Assessment Inventory. It sets very high standards for designing and delivering effective services. This can be residential or non-residential. It indicates that staff need a high level of education, training, relevant experience, length of stay, clinical skills etc.

What small private agencies need is ongoing training and support to assist them with innovating interventions and implementing programs that reduce risk better. This would indirectly increase the effectiveness of the Ontario Board of Parole.

With the financial assistance of CSC, to give a federal example, the Canadian Training Institute was established specifically to provide this kind of service. Unfortunately, access to it remains rather limited these days because of budget cuts, the lower release rates federally and so on.

Some of the savings achieved by a higher community release rate should be used on providing more training opportunities and support services to agencies attempting to improve their own program design to reduce reoffending among higher-risk offenders.

I just want to mention very briefly that educating the public is of critical importance for the field of corrections, justice and so on. Despite our best efforts and excellent results, there will be failures. Some of them will likely be sensational and tragic, and there will be public outcries when such situations arise. At times like these we have to remember our overall successes and review the whole system realistically and not emotionally. We must take the opportunity to see where we can improve. We must also ensure that the public is educated about the criminal justice system.

One of the central findings of research on public attitudes towards criminal justice is that, when provided with more information than is usually conveyed by the average newspaper article, the public responds with sophistication and flexibility regarding criminal justice policies. Educating the public is a major challenge for the correctional system, one to which it should dedicate greater resources.

So, overall, to sum up, my recommendations would be that the ministry implement the following practices to improve the effectiveness of the Ontario Board of Parole at making decisions about the timing and conditions of release of offenders that facilitate the rehabilitation and reintegration.

1030

First, the ministry should ensure that all agencies delivering community programs have adequate but not too restrictive, internal security policies and procedures.

Secondly, a single gradual release board be set up with authority over both temporary absences and parole.

Thirdly, more resources be dedicated to provide agencies, staff, training and support services to increase their effectiveness at designing and implementing programs that reduce risk.

Fourth, more resources be dedicated to providing public education. Thank you.

Mr Pouliot: Thank you very much and good morning. I certainly value the quality of your time and your expertise. You would be familiar, referring to A Blueprint for Justice and Community Safety in Ontario, New Directions, volume 3, on page 24—this is what the government said: "By combining stricter supervision with more cooperation and support to private sector initiatives such as the John Howard and Elizabeth Fry societies, more offenders are likely to be successfully integrated back into society." This is what they said. They issued an opinion but they also have the mandate to go beyond an opinion, if you wish. That's their direction. I have some questions.

Were you consulted? You're the person on the street; you're the expert in the field; you, along with others. Did the government consult your organization before they did chop or cut the funding for halfway houses?

Mr Allgoewer: There was, to my knowledge, no consultation whatsoever. It was very difficult to have access to any of the higher ranking officials to talk about our views.

Mr Pouliot: This morning my name is Gilles Lunch-pail Citizen. As a result of what was done, should I be concerned, grosso modo, about public safety in general?

Mr Allgoewer: I believe that you should be. I believe the public should be very concerned about the closing down of community correctional programs. It's in the community where programs are most effective and where the offender who is taking those programs actually has the chance, without having to fear what other inmates will think of him and so on, to try and implement those in the street when he encounters the average person. He can't do that in an institution.

Mr Pouliot: Quite often, when decisions are made, it parallels life in general, it's a tradeoff. Some people where I come from want to cut all the trees, other people don't want any trees to be cut, and in there, some accommodations are being made. So because they've cut funding for some 400 beds, what impact does that have on the parole system? Are they holding back on parolees, fewer people? Or are more people reincarcerated? Surely you can't have it both ways. If you cut on the one hand, there have to be some consequences.

Mr Allgoewer: I'm not completely sure what has happened to parole in Ontario but I know the other way of gradually releasing people through temporary absences has been reduced very, very significantly. It was on temporary absences that people got programs and halfway houses.

Mr Pouliot: I have one last question and my colleagues will have some relevant supplementaries. It doesn't have to be to the penny or the dollar, but if someone wants to save money, what's the cost of an individual under the auspices of a halfway house vis-à-vis the same individual being in jail?

Mr Allgoewer: Again speaking only about federal halfway houses, the average cost is around \$59 per day per person. My understanding is that to keep a person in an Ontario prison is approximately \$134 a day. There

shouldn't be any reason why provincial houses don't operate at around the same figure, somewhere in the \$60 range per diem.

Mr Pouliot: Not much common sense. Maybe you're too nice to say this and I appreciate the courtesy, but it doesn't seem that there is much common sense to this kind of endeavour.

The Chair: That's not a leading question, by the way.

Mr Pouliot: No, I come here with candour.

Mr Allgoewer: I'm here because I strongly believe that community corrections is very important and you can accomplish the most in terms of changing offenders' attitudes and behaviour by dealing with them in the community, by operating programs in the community for them. That reduces recidivism and that reduces the costs of not just keeping a person in jail for that period but the costs of policing and of courts and whatever other costs there are. There are a lot of costs associated with people recidivating, committing new offenses.

Mr Hastings: Mr Allgoewer, thank you for coming today and making your thoughts known regarding the issue facing us on this committee. I wonder if you could elaborate on whether your organization and your members have a code of ethics dealing with people released from the institutional setting. Secondly, you talked about levels of security in halfway houses, or whatever term might be more suitably used to describe those operations. Do you have specific levels of security that all your members adhere to? You mentioned in your presentation about the way in which you try to secure these folks until they're completely or nearly rehabilitated.

Mr Allgoewer: Yes, Correctional Service Canada about 10 years ago did some national consultation with community groups, other experts in the field, and they put together a standards manual for halfway houses. We continue to get audited on the standards that are in the manual. They're part of our contract. They address a lot of issues, including safety and security issues, and we have to continuously demonstrate that we're meeting those requirements.

Additionally, those are generally sort of minimum requirements. Halfway houses are run by different community agencies that have their own internal standards. The Salvation Army may have different standards for correctional programs than does St Leonard's or Elizabeth Fry. They may add to those in certain ways, or the house director may have even stricter criteria because the target group may be different. But all of them have security and safety procedures. We all recognize that you cannot run programs without controls being in place with these ex-offenders.

Mr Hastings: You also alluded to the point in your recommendations that more resources are required to keep folks from becoming recidivists or even having new folks enter the situation because of a whole complex set of social causes.

When you allude to "more resources," and our spending envelope is the same or less, I'd like to hear what you would have to say about—even though you haven't mentioned it in your brief—whether in fact you would recommend, one way or the other, whether this government ought to look at folding the Ontario Board of Parole

into the federal system, as at one time was being considered earlier, when we were elected last June. I don't think the thing has been resolved in the long term yet, even though there have been recent appointments to the parole board. Whether in fact if we have less moneys to spend or we're going to get more value out of what we've got left, would we be doing anybody a favour or advancing public policy by having parole hearings done federally, and reduce the duplication overall?

1040

Mr Allgoewer: I guess my feelings are, and figures seem to suggest, that the Ontario Board of Parole pays for itself by the savings that are received from releasing people and not having them in institutions. If more people were to be released from provincial institutions on some kind of gradual, conditional release, then there's a potential for even more savings. If the 38% were achieved like Quebec, I think there would be a lot more money available to improve programs in the community that will reduce recidivism. That again will lead to a lot more savings to the government.

There should be more money made available to community-based programs like us that just barely have enough money to operate the programs, so that we can continuously benefit from the research. There's a lot of research going on in this field that shows how one can reduce recidivism further and how to design programs. I don't think it would take a lot of money to subsidize the Canadian Training Institute, as an example, to better serve our needs in program design so again we can be more effective at reducing recidivism. We're not talking millions of dollars here; we're talking \$10,000, \$15,000, maybe \$50,000 to really improve programs, update them, bring them in line with what the research says is the direction.

Mr Hastings: So is that a yes, that we should look at folding the Ontario Board of Parole into the federal?

Mr Allgoewer: No, I haven't spoken to that matter at all. It seems to me that, as they currently exist, they are achieving their mandate. I think they feel that they can do more, looking at the auditor's report. I don't think that the OHHA has really any strong opinions whether there should be one board or the Ontario Board of Parole continues to exist, so long as whoever that group is does a good job releasing people and is allowed to do that.

Mr Agostino: A couple of points to get to questions. When this government moved to basically eliminate the funding of the halfway houses in the province, I would presume that some of that was based on the fact that there were some difficulties and that possibly the criteria may have been the problem: Who gets into a halfway house or at what stage to get in there and what happens once they get there. Of course, rather than trying to tighten up the eligibility or review the eligibility process, they just decided to do the simplest thing, which was get rid of them, which I agree was a mistake.

There was some room for improvements, but you don't destroy and dismantle the system to bring about those improvements; you fix it and you address it. I think they failed miserably in doing that. We now have a system that is going to allow individuals to go right from the jail

system into the community without any integration. If they think that is not going to lead to further recurrences, I think they'll be quite surprised what will happen. That is one point.

I want you to comment on that in a minute if you can. The second is the screening process, the eligibility process, and whether that in your view needs some review and whether there are some ways of trying to make that system a little better.

The second aspect is a concern in my community. I've mentioned this before and I'm going to try to mention it to many of the groups that come forward, to get their view on this. We've had a number of incidents in Hamilton-Wentworth of individuals who have been released, particularly around the area of sexual offenders as it involves children, where there have been a number of cases of repeat offenders, of individuals who have been out, in halfway houses in the community, with some fairly strict orders in regard to staying away from parks or areas where children were, and have basically broken those orders. They have been out there, in some cases have reoffended, and in some cases have been nabbed before they reoffended.

I've always believed very much police should have the authority to make a judgement call without fear. As it now stands, the police, in a sense the police services board—the legislation is still reliable when they take the action of approving, or of a police chief approving, an individual picture or name being released, if they're going to be released in a community, to warn the community that there's a potential danger.

That's always been a difficult issue, but I very much believe that when that happens, when the police department feels it's in the best interests of that community to warn the community that such an individual is being released to a halfway house, or has been released on parole, they often could choose to release the picture and the details of that particular individual, which I think serves to protect the community.

Certainly I hope this government, and we've talked about it before, will move to give the police that authority without the liability aspect that is now there. I think all they're waiting for is a direction from this government to be able to do it and you'd see more of that.

I'd like your views on those, first of all on the screening process for eligibility in releases, and secondly, on the aspect of giving the police the authority and the power to release pictures and names of individuals, particularly of sexual offenders where you know the risk or rate of recurrence is very high, if the police feel they're a threat to the community. How would you view those two?

Mr Allgoewer: First of all, about changing criteria, I don't think the criteria need to be tightened up in terms of eligibility to conditional release programs, houses or other programs. Each case always needs to be reviewed. We need to look at the merits of the individual case, and some board, a gradual release board or the Ontario Board of Parole, has to use the tools it has available to exercise its mandate and make the best possible judgement decision. Individual programs need to make sure that

appropriate people get to their programs. Programs are different. They need to have sound criteria. So it's important those two processes be allowed to take place.

Generally, my feeling is that we have a situation now where we need more releases into the community, not less, and I think tightening criteria is not, in the long-term, going to accomplish anything. Maybe there need to be some better assessments of individuals, but I don't think tightening the criteria is going to serve any real purpose in the long-run.

On your second question, just remind me, please.

1050

Mr Agostino: It was about giving the police department more flexibility than it now has in releasing names and pictures of individuals who have been either paroled or are in halfway houses in the community, particularly as it involves high-risk sexual offenders and repeat offenders with children.

Mr Allgoewer: My feeling is that the police need to work together with Correctional Services, with the National Parole Board or with the Ontario Board of Parole so that they don't work at opposite ends. You have to really look. If this person is going to be released because he's close to the end of a sentence or he's going to be released on parole, you have to look at what's going to reduce the likelihood of that person reoffending. I'm not sure that broadcasting to the public at large that this particular person is coming out is necessarily going to accomplish a lot, but I think certain people knowing where he's going to be and monitoring him there, key people being aware, is very important.

We're also talking here about a very small group of offenders who may always be dangerous, and that very small group—I will give a written submission as part of my overall submission when I do that. The Ontario Halfway House Association has published a positional statement that basically says we don't feel everyone in the federal system ultimately should be released. There is a small group of people for whom that just may not be appropriate, and we recognize that. We acknowledge that. We're not advocating conditional release for every single federal offender in the system. I think we're more sophisticated and knowledgeable than that.

Mr Agostino: In Hamilton, we saw where the police made the decision. They recommended against a release. It was done. They made the decision at that point to release the picture and the information on the individual. That individual, as a result of that, was recognized by a parent in a park, totally against the order and the conditions, so that individual was arrested and charged as a result of that. Had that not occurred, that individual would have been roaming around that park. This is where I think it can play a positive role.

Mr Allgoewer: That's an example of where it did.

Mr Agostino: That's where the police made the call and it worked out for the benefit of the community. The parents would recognize and take appropriate action with the police at that point, and this is where I think we—

Mr Allgoewer: It's a very difficult call and I don't have a real position on that particular situation.

The Chair: Mr Allgoewer, thank you very much for your presentation.

ST LEONARD'S SOCIETY OF CANADA
OPERATION SPRINGBOARD
ST LEONARD'S SOCIETY OF LONDON
ONTARIO ASSOCIATION
OF COMMUNITY CORRECTIONAL RESIDENCES

The Chair: The next presentation is going to be made by a group of presenters: Ontario Association of Community Correctional Residences, Ontario Halfway House Association, St Leonard's Society of Canada and Springboard.

Ms Elizabeth White: I am Elizabeth White, executive director of the St Leonard's Society of Canada. On behalf of the St Leonard's Society and my colleagues who are with me today, I thank the committee for the invitation to make comment concerning the auditor's report on parole in Ontario and to respond to any questions you may have for us. It's my pleasure to introduce to you the comments found in the brief which we have prepared and will present to you this morning.

With me today are Margaret Stanowski of Operation Springboard, Peter Aharan of the St Leonard's Society, and Arthur Stratton, who speaks on behalf of the Ontario Association of Community Correctional Residences. Mr Allgoewer's association is also associated with the brief we bring to you today.

Each will speak with you concerning specific matters in order that the committee will receive as broad a perspective on the issues presently before you as we can do for you today. Ms Stanowski will speak to the issue of accountability and some of the matters which were raised during your January 31 hearings, Mr Aharan will be speaking of special-needs populations and Mr Stratton will discuss the continuum of care precept which has been raised in questions earlier this morning. Each of us will be pleased to respond to any questions you may have either during our comments or at the conclusion of our remarks.

We have chosen to present our comments collectively to most efficiently provide to you the opportunity of hearing from some of the broad spectrum of community-based service providers on the important matters you are presently considering.

The group that is here is not, as you well know, an exhaustive representation of the community-based criminal justice agencies in Ontario. Our numbers include both the John Howard Society, which made presentation in January, and the Elizabeth Fry Society, which is scheduled to appear before you next week and whose executive director in Ontario, Elizabeth Forestell, is also here this morning. Both of those organizations have taken part in the discussions which led to the presentation of our brief.

We believe that this presentation will complement the comments of both Mr Stewart and Ms Forestell, as we bring to you with this presentation a focus on the availability of and need for cost-effective and efficient—both in terms of the use of fiscal and human resources and in terms of the production of a safer society—programs and services in the criminal justice field in Ontario. I emphasize the term “safer society” because it is one which will be repeated often this morning. It is our goal, as it is the

goal of our colleagues in police and corrections, that we should all live in as safe an environment as is possible. We provide through our programs some of the components which enable our society to be a safer place than it would be without the services which community agencies bring to Ontario.

Who are they? We are the representatives of community-based responses to the need for communities to be involved in the criminal justice system. The involvement is necessary in order that the system may better reflect the concerns of our communities and respond to our communities' needs for services which promote crime-free living. It is our common conviction that without the active participation of the community in the criminal justice system, the goal of a safe society is made both more difficult and more fiscally expensive to attain.

Our community-based organizations exist to make communities safer. We do not purport to have an exclusive on the mechanisms that have that result. What we do have is the ability to creatively respond to the changing needs for safety in our communities. We have that ability because we are volunteer-based, volunteer-governed, and our volunteers are part of our community. Our foundation lies in volunteerism and our continuance is based on volunteer activity and commitment. Individuals come together in community-based corrections to support an effective response to criminality. They are successful to the extent of their interventions.

Allow me to briefly describe for you the St Leonard's Society of Canada to set a context for my participation in this presentation. St Leonard's is an affiliate-based organization which exists to support community agencies in their efforts to provide programs and services which make Canada safer by efficiently and effectively assisting people to live free of crime.

St Leonard's began in Windsor, Ontario, where it pioneered the concept of halfway house living for men who had been incarcerated in the federal system. Community volunteers determined the need for the service based on the difficulties men had in returning to their home communities after a period of incarceration. An examination of their needs indicated that community-based supports could have a positive impact on the returnee's ability to integrate with society.

In 1962 a house was opened that provided the first of the structured responsive program opportunities that Mr Allgoewer was describing to you earlier this morning. The purpose was to assist the interested offender—I highlight “interested offender”—to make a successful transition to living independently in the community. The success of the program has been reaffirmed many times over in other communities across Canada as the model of structured community living was adopted to give people the chance to establish themselves and live productively again in society.

St Leonard's has sponsored the creation of a variety of community responses to criminality as the numbers of persons sentenced to long periods of time has grown and men who have been separated from society for decades began returning to an unrecognizably altered society. St Leonard's developed a program specifically designed to address their needs. This program, Lifeline, is now being reviewed for implementation across the country.

With such services, the St Leonard's affiliates and many other community-based organizations provide the community component to the effective integration of former offenders within society. Because the people who use our programs and services come to us by choice, they are inclined to take advantage of the proven successful services that are made available to them throughout Ontario. One of those services is to help people prepare for their parole process.

1100

Others have identified, and our brief repeats with appropriate research data, the facts of the parole system currently in place in Ontario: the context of the under-two-year sentences for which this province is responsible; the brief window of opportunity, rarely more than a few months, for certain individuals to demonstrate their preparedness to be released on a structured program in society and to receive the assistance they require. Parole's value lies in its effectiveness in assessing timing and conditions of that form of release as is set out in its legislative mandate. One of the significant values of the organizations represented before you this morning lies in their ability to provide programs and services which support conditional releases approved by either the parole board or, in the case of temporary absences, by the superintendents of one of the provincial prisons.

I noted that when Mr Griffin spoke before you on January 31, he referred to problems inherent in systems which release offenders without due follow-up or supervision. We agree that for those offenders who indicate higher needs, and they do exist in Ontario, appropriate program provision results in reduced recidivism. The simple holding of individuals apart from society does not buy much safety for its horrendous fiscal and human cost. To simply set aside people for periods of time averaging 79 days for men and 53 days for women at a cost of \$132 a day or more when the money could be allocated to far longer-term programs of supervision in the community doesn't meet a cost-effectiveness test at all. Ontario gets more safety for less money in both the short and the long term when it allocates its tax dollars to structured, community-based releases than it does for using incarceration of persons for whom imprisonment does not contribute to their development of a crime-free lifestyle.

In our brief you will note reference to the English experience, which indicates that it requires a 38% increase in imprisonment to achieve a 1% decrease in criminal activity. The experience in the United States has yielded comparable results. We do not build a safer Ontario, a more successful Ontario, if we address criminality by warehousing those who are the source of our problems for a few months and then returning the same individuals to the streets with no improved methods of contributing to society, without the skills people need to live crime-free.

The words of the then Dutch Minister of Justice cited in our brief remain as true today as when he spoke them in 1988. I draw them to your attention:

"Imprisonment has always fallen and will always fall short of expectations.

"As a means of revenge of retribution it fails; as a deterrent it is ineffective; as a way of protecting society

it has proven to be unsuccessful; as a means of converting people it fails; as a therapy it fails; as an instrument of social rehabilitation and resocialization it shows only poor results."

To get rid of parole, to reduce options for offender management in the community would, in our submission, be counterproductive.

Our position then is that conditional release, with its attendant safeguards, is a necessary component of a successful criminal justice system. It is an appropriate use of our resources, both fiscal and human. Firstly, it is cost-effective; secondly, it contributes to community safety; thirdly, it allows the efficacy of program and treatment interventions to be effected in the most successful manner possible; and fourthly, it encompasses a variety of responses with the flexibility to meet the changing needs of our society.

We turn first to the cost-efficacy issue. The fact is that the greater the static security interventions you use, the more it costs in daily dollars. We know that it costs \$132-plus per day to imprison and we know that the cost of community intervention is approximately one fifth of that amount. Some will say that we must incur the cost of imprisonment to give our society protection, and indeed there are some individuals for whom some form of physical separation from society is a requirement for some period of time. But we're talking here of people whose maximum length of sentence is two years less a day. All of the people under your mandate are going to be coming back to the streets very soon.

Is the cost of imprisonment a good use of your resources, our resources? What safety are we buying with the dollars? Research finds that at least 75% of those in Ontario jails are not convicted of crimes of violence, yet the Ministry of the Solicitor General and Correctional Services spends about 80% of its \$361-million budget keeping them locked up for a few months. That stat's a couple of years old; it's more than that now, I do believe. We believe that the greater part of that money would be much better spent enabling these individuals to become law-abiding contributors to society. Financial resources are scarce. It is prudent that the ministry allocate moneys to proven risk-reduction strategies for individuals of higher needs and higher risks. It is not useful to pay the tremendous expense of keeping people in jails when the short- and long-term expenses will both be less if they are in a supervised community setting. Our Ontario Court of Appeal has said so often that it is now trite law to say that the best protection for the public is the rehabilitation of the accused. You don't win if people keep going back in. You don't win if the law keeps getting broken.

Turning to community safety next, the organizations before you today are committed to building safer communities. Our members, our supporters across this province, know that we make our communities safer when we reduce the risk of recidivism. This is not in isolation, of course. We support the need for early interventions and wellness of children as integral to the safety of our future. But today we speak in the context of conditional release mechanisms as they relate to our safer communities.

Parole is about deciding when and on what terms a person can best return to their community. Provided we

are only keeping in prison—and it's a big "provided"—those who need a time of separation from society and we're not wasting our time on those who will not offend again anyhow or who are at very low risk of doing so, then parole has a significant role in assessing the type of program and the best form of supervision to result in a crime-free future for an offender. It is in that future that we build our community safety. If Ontario decides that it's not going to use its resources to strengthen the ability of its citizens to be law-abiding, then it is simply investing in a more dangerous, less good future for all of its citizens. The result would be an unnecessary decline in both productivity and personal safety.

Program and treatment interventions are the third matter that I noted. Effective programs reduce recidivism. Ontario gets decreased costs and greater safety when it uses good correctional treatment options. The research has now been growing over a 20-year period. The results are not in dispute. The percentage of efficacy may vary; the principle does not. Our brief refers to some of the more noted research papers available in Ontario on this point, many of which were commissioned by the Ministry of the Solicitor General and Correctional Services.

Four points need to be made in support of this aspect of our presentation.

The first is that without structure and encouragement, individuals in conflict with the law might not choose to seek out treatment. Therefore, treatment as a component of a release plan is more effective than simply giving someone a list of community resources that are supposedly accessible when they walk out the prison door. I say "supposedly accessible" because it is our common experience that many purportedly available resources are simply not available for persons with a criminal record, whatever form that criminal record may take.

The second point is that treatment works better in the community than it does in prison. Mr Allgoewer referred to this already this morning. On examination, it's not hard to see why this would be the case. Prisons are not a usual setting. They may be termed asocial. The longer persons are inside prison, the less is their ability to function on the outside. For one thing, the outside is just changing too fast. There clearly is a prison culture and it does not relate well to living at large. Program and treatment delivered in a prison are delivered and received in this artificial atmosphere. Treatment remains most effective when it's delivered in a controlled but realistic setting in the community.

Thirdly, treatment and program are most effective when they address the criminogenic factors displayed by an individual. The experience and expertise of the various forms of conditional release available in Ontario today are capable of targeting those aspects displayed by released offenders which have been identified as most likely to lead to criminality.

Fourth, treatment works best with people who have high need. Expensive interventions for low-need individuals are not best practice. We must reserve our resources for those whose indicators are that they are in need of intervention. We have the tools available to us in the criminal justice system now. Ministry staff and board are trained in their use and interpretation. The community

resources are well aware of their impact. The system is capable of targeting programs to those in need without undue wasting of program dollars.

1110

The fourth aspect we wish to bring forward today is the flexibility of responses and alternatives that are currently available to the releasing authorities. We oversimplify if we expect that any one response to crime will result in a safer, more cost-effective system. The community-based organizations that are represented before you today are keenly aware of the need for a range of responses dependent on the needs and risks posed by an individual offender. As I have said, we acknowledge that there are situations where separation from society is necessary for the protection of society, but we also know that for the vast majority of persons sentenced to provincial terms, a lesser intervention will be effective and cost-sensitive. The form of that intervention is determined by a variety of factors, and it is not a good use of resources to require participation in programs which are not necessary, whether they be in the prisons or on the outside.

Parole, as is noted in our brief, while 83% successful in this province, is not overly utilized and is not within practical reach of the vast majority of provincial incarcerates. It is a useful mechanism, as we've stated, to determine the timing and conditions of release for some individuals, and that's proven by its success rate. It's worth highlighting the fact, which is also demonstrated in our brief, that while with parole there's a 16.4% revocation rate, primarily for technical violations rather than for substantive offences, there is by at least one study in this province an up to 39.8% rate of reincarceration within one year of offenders who completed sentences without benefit of conditional release.

For others, temporary absence has been a successful program. Temporary absence with residents in a community setting had developed into a very cost-effective and community safety-effective form of return to the community. The closure of the community resource centres last October, without consultation, effectively removed from the ministry its ability to respond to the need of those individuals at the higher end of the risk scale in a structured and supervised format. Ontario does not save money when it removes the ability of offenders to access the programs they require in order to successfully live crime-free. The fiscal expenses of repeated involvement with the criminal justice system, the human cost to victims of crime and the loss to Ontario of the productive participation in society of the offender has both immediate and long-term impacts on how Ontarians live and prosper.

For some, an extended form of temporary absence has been implemented, with some positive results in terms of decreasing pressures on our prisons, but for some of those individuals the extended form is being used without any support or interventions in the community, even when there has been an identifiable need for such support and supervision. It will not benefit the credibility of our criminal justice system if, by failing to afford resources to individuals who have modest needs for intervention, the result is an increased involvement with and conflict with the law. That route becomes expensive in the end.

Our brief notes other alternatives to incarceration which we believe merit your review, and we leave them with you. Each may be capable of successful inclusion in our responses to criminal activity. We urge you to view all of these forms of conditional release as part of Ontario's response to crime in order that the result will be a safer Ontario.

Ontario's experience has been that appropriate use of alternatives to incarceration is cost-effective and promotes community safety. However, as Mr Allgoewer noted, there is no system which guarantees 100% community safety. Tragedies happen; we can learn from them. We can improve our systems as circumstances change and as our investments in research lead us to develop improved interventions. But we will never be able to eradicate all crime. What we can and must do is take all steps within our knowledge and our experience to reduce the likelihood of criminal activity; a range of actions is available to us to do so. One of the most successful, cost-effective and human-development-effective methods that we have is our conditional release system; we urge you to ensure its continuance. We thank you for the opportunity of presenting to you today.

Ms Marg Stanowski: I'm Marg Stanowski. I'm the executive director of Springboard. I'm certainly very pleased to be here to speak with you. Springboard is an organization that's dedicated to making our communities safer places in which to live. We deal with thousands of offenders each year. Our programs also extend to individuals who are at risk for criminal involvement. We really hope to deal with preventing crime from occurring.

I should say in terms of my own experience that I've been involved in corrections for 23 years, 12 of those with the federal government. I was a federal parole officer and superintendent of a correctional centre. As well, I've been in the private sector the last 11 years.

In my observations today, I'd like to really reinforce some points made at the January 31 proceedings. We've heard about considerable strides and advances within the Ministry of Correctional Services, the Ministry of the Attorney General and the Ontario Board of Parole in the areas of risk assessment, integrating offender information systems and efforts to improve the effectiveness and efficiencies in parole decision-making, as well as improved documentation systems, enhanced performance measurements and member training. Many of the auditor's recommendations are being implemented. Accountability to the public must be a paramount consideration.

In appearing before this public accounts committee, our concern is a very basic one: Is the Ontario government wisely investing scarce criminal justice resources to prevent and reduce crime in our communities? I think that's a pretty basic and straightforward question. The auditor's report confirms that \$400 million is being invested to incarcerate 50,000 provincial inmates each year. My math on that tells me that this costs about \$80,000 per year per offender; provincially, I hear \$50,000 to \$51,000 per year. I'm wondering whether capital costs are included in that number, but I think it's something worthwhile to check. When you divide those numbers into one another, you seem to get a little higher amount than seems to be generally purported.

Again, I'd like you to consider that 80% of the 50,000 inmates in provincial institutions are non-violent offenders; about the same number are serving sentences of less than six months. The question comes back: Are we wisely investing costs—of about \$140 per day; that number seems to vary—to incarcerate this offender population?

The auditor's report also confirms that in 1994 Ontario placed only 12% of provincial inmates in community programs. That was compared, I believe, with Quebec, which had a rate of about 38%, if my memory serves me correctly. The auditor recommended increased utilization of these cost-effective community placements for non-violent offenders. The dichotomy here that I'd like to raise to you with respect to that astute recommendation is that the recent initiatives and policies of this provincial government will actually decrease, not increase, Ontario's utilization of community placements.

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Let's take, for example, the closure of halfway houses. Institutions will have decreased reliance on valuable programs to place, in this case, non-violent inmates serving shorter sentences. We're looking at the introduction of electronic monitoring in this province. However, if one examines currently the criteria for participation in electronic monitoring, they're so very limited right now, as they exist today, that very few inmates can qualify—very few. I also note that there's approximately about a 10% reduction in the parole-granting decisions that have been made in the last few months.

What does all this mean? I don't want to throw statistics at you. I'm dealing with some basic questions here. This means, to us, that Ontario is making a decision. We all, as taxpayers, are concerned about crime and victimization. We consider that the choice that is being made today by this government is to purchase and prolong unnecessary and costly incarceration as a primary safety strategy for the majority of provincial inmates who are serving sentences of less than six months for non-violent offences. It keeps going back to that question. This choice is being made when there is no evidence whatsoever to support that incarceration deters offenders or that such a costly measure can reduce recidivism.

I'd like to put forth three points here in terms of what we consider this choice will result in:

First, more non-violent offenders will be serving their sentences in jail; a simple conclusion.

Second, there will be diminished access to and support for investing in conditional release and community programs, even though research confirms that well-run community programs can reduce recidivism by as much as 50% on average and at one fifth the cost of incarceration; an important point.

Third, in terms of consequences of decisions that are being made today, we are not prioritizing our scarce resources to deal with the more violent offenders as well as for those high-risk offenders who will be denied parole and released at the completion of their sentence and returned to the community without supervision or controls.

We are urging this committee to consider expansion of a highly accountable conditional release program or

gradual release board and to invest in well-run community-based programs. These recommendations will enhance, not diminish, community safety. They make economic sense and will enable this province to preserve costly resources for the violent and higher-risk offender. Choosing not to invest in this offender population will most assuredly endanger community safety.

Mr Peter Aharan: Good morning. I'm Peter Aharan, the executive director of the St Leonard's Society of London. I applaud your patience and your attention as we bring various points on these matters before you. I appreciate the opportunity to come and speak to you this day, and I will speak with specific reference. In order to further complicate your considerations, I would like to address some circumstances that I will, in general terms, speak to regarding the high-needs offender.

Prior to entering that particular point, I would like to inform this committee that in representing the St Leonard's Society of London, I represent an agency which was founded in 1969 and which, at the current time and through that evolution, has served a broad range of persons in conflict with our community in London, ranging currently from a 12-year-old person proceeding through the alternative measures initiative, a post-charge diversion effort, right through to an individual released from federal penitentiary serving a life term. So we have had the opportunity in our community to experience a broad range of persons in conflict with the law.

We do so with the support of a community-based board of directors, and that board is comprised of a spectrum of citizens in our community which includes senior ranking members of our local police force and—I would also like to elaborate—persons from business, persons from education, persons from the legal community.

My submission would like to focus on groups that I will call special-needs populations. My terminology will be, I think, common language. There may be more sophisticated and technical terms available to us; I would like to speak in general common terms. The subgroups which I wish to present for consideration to you today are not intended to be all-encompassing. In particular, there are subgroups within the correctional or criminal justice community, such as female, aboriginal or visible minority offenders, who have been identified as persons requiring special or particular consideration, and it is not my attempt to address those persons today.

With my brief comments I would like to focus on the relationship between parole and the specific needs or special needs posed by individuals who are identified as developmentally challenged—in another era we may have referred to those people as mentally retarded—or consumers of psychiatric services, commonly referred to perhaps as ex-psychiatric patients, who find themselves in the criminal justice system. I find that is of particular importance to considering the issue of parole. I think it is safe to assume that with our strategies towards deinstitutionalization of long-term care facilities for the developmentally challenged—I cite Oxford Regional Centre in my neighbourhood, a 700-bed facility some 10 years ago, which will be emptying this year. I do not disagree with that strategy; I merely wish to illustrate that to suggest

that of those 700 individuals who are developmentally challenged, a number of them, a percentage of them will find themselves in conflict with the law. What are the implications of that for our criminal justice community and in particular for the issue—that is, parole—before our committee today?

Also, I would like to make note of the psychiatric community. Also in my community, two psychiatric hospitals, St Thomas and London, are being collapsed into one. That tells me that 300 inpatients will be released to the community. That is a wise strategy for many good reasons. Again, I wish to make it clear, I am not addressing that strategy. I would like to address, however, I think a reasonable outcome of that strategy, and that is that some of these individuals will find themselves in conflict with the law. How will they be attended to in the criminal justice system?

As a basis for my comments to you today, I would like to share with you a little bit of information about a program that the St Leonard's Society of London was proud to operate from 1988 through to the closure of the residential centres in October 1995. That facility is Egerton Centre. It attempted to specialize in the reintegration of offenders who had a developmental history or an ex-psychiatric history. Mr Sandhu, who has appeared before you before, I would recommend as an individual to further consult about this particular program. It was well recognized, I believe, within the correctional community in Ontario. This facility did receive many referrals from the Ontario Board of Parole. It was a vehicle through which the board felt it could safely release individuals who were developmentally challenged or who had a psychiatric history, that they could be released safely into the community.

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The developmentally challenged offender or the ex-psychiatric offender is difficult to serve in a prison environment. Relationships with doctors, therapists, other necessary interventions are likely severed. A recent study completed by the ministries of Health, the Attorney General and Correctional Services indicates that upwards of 20% of Ontario prison inmates have a psychiatric history. I am speaking in simple terms here. That number does not include individuals who may be developmentally challenged. I wish to reiterate that the closing of institutions will in all likelihood add to that number, and that number is clearly disproportionate in terms of their representation in the broader community.

Our experience indicated that the developmentally challenged or ex-psychiatric person often came into conflict with the law as part of an overall deterioration of that person's community support system. Aging parents, exhausted caregivers or overtaxed community resources often preceded coming in conflict with the law. Once identified as having an antisocial behaviour or a conduct disorder, these persons found greater difficulty in accessing or maintaining their involvements in community supports.

Parole can offer these offenders access to appropriate services, re-establish and monitor vital community supports and reduce the potentially debilitating aspects of incarceration. The restoration of support systems, in

concert with supervision, promotes public safety. Direct releases to the community without the benefit of supervision will result in increased demands placed upon various high-cost systems in our society. Two that come to mind quite quickly are emergency hospital rooms and the revolving-door problems that are associated with the justice system.

The needs and risks associated with serving developmentally challenged and ex-psychiatric offenders, coupled with the needs of the public, are best addressed through a correctional system that matches the offender with the appropriate institutional and community-based reintegrative strategies. Mechanisms of conditional release, including parole, have the potential to facilitate and monitor the offender's reintegration.

St Leonard's Society believes that the principle that I have described to you, a careful matching, attention to risk and need and matching to services, is an appropriate, efficient crime prevention strategy. This is particularly true, I wish to say in my submission, in the case of individuals who have developmental challenges or psychiatric histories.

I wish to merely point out that the range of complexity of managing the reintegration of offenders safely to our community encompasses many issues, one of which I believe is the issue of the special-needs populations in our prisons, and I see parole as part of a conditional release strategy as a very effective tool.

You have heard a great deal this morning about the halfway house situation and it is not my intent to go on about that particular point. I would like to indicate, though, that a particular facility that served this client group was directly related to the parole board as a referral mechanism. What that meant for the correctional system in our community was the provision of a continuum of care, and I feel that is fairly important and will be addressed by our final speaker.

An individual who is developmentally challenged or who is under psychiatric care was able, through temporary absence through to parole in a structured community-based setting, to maintain the important linkages with his or her care network. I feel that is a fairly important subgroup within the broader considerations of the administration of criminal justice and specifically the application of parole to persons in conflict with the law.

Thank you very much. I think we'll go to our final speaker, and I welcome your questions.

Mr Arthur Stratton: Good morning. My name is Arthur Stratton and I'm representing the Ontario Association of Community Correctional Residences, which is a province-wide organization representing adult halfway houses and phase 2 open-custody residences in Ontario.

Our association's mandate is to promote an informed, unified voice to enhance community services. Our members strongly believe that we provide opportunities for change in an atmosphere conducive to change. We firmly endorse the principle that community corrections be the main component of a continuum of care and remain directed by a caring community where volunteer support originated and exceptional leadership is available. Our association members adamantly support the use of a least-intrusive form of intervention and encourage

ongoing research into both the criminogenic needs of offenders and effective treatment models.

It is clear from the experience of other jurisdictions that efforts towards rehabilitation of the offender are less effective within an institution than in the community and that crowding pressures cannot be eased through expansion of institutional accommodation. It is felt by the OACCR that there is potential for supervision and rehabilitation for many more offenders in community settings.

It has been asserted that providing supervision in community settings by a variety of means, ranging from halfway houses to intensive or day reporting under probation-parole supervision to electronic monitoring using various technologies etc, is more effective in providing rehabilitation and is more cost-effective than traditional jail settings.

By providing a high level of service and supervision to a high-risk, high-needs offender, one can predict a positive result. It is a mistake to assume that we are only able to affect low-risk or low-needs individuals. In fact, research has shown that providing a high level of service to a low-risk, low-needs offender will result in an increase in recidivism. As can be seen from current institutional overcrowding, the criminal justice system is not effective in targeting or sorting those individuals who do not require the level of service and supervision currently imposed.

We must have available a continuum of care throughout the system with a range of alternative community-based programs to which clients can be matched to maximize rehabilitative opportunity. We must target and match individual needs through the provision of a broad range of flexible services and supervision levels that are consistent with the client's needs and a cost-effective delivery using a case management model.

The Corrections and Conditional Release Act allows Ontario to have in place a release mechanism that will facilitate the rehabilitation of offenders and their reintegration into the community as law-abiding citizens. Nowhere in the act does it state that the province is limited as to how effective or successful the release mechanism can be.

With this in mind, we believe that the province must strive to ensure that the most effective release mechanism be in operation and that it include an enhanced use of community supervision based upon the assessed needs, risk and responsivity of the offender. Thank you very much.

Mr Toni Skarica (Wentworth North): I want to talk about the French system for a minute. I don't know if you have any stats there, but you have a lot of comparisons to United States jurisdictions and England. In France they spend about \$500 a year incarcerating somebody. I don't believe their recidivism rates are much different than ours and I think actually may even be better.

There was an individual named Frank Abagnale who was doing worldwide frauds, and he spent time in both the French jails and US jails and now has been rehabilitated substantially, but he indicates that it was the French experience that had the most salutary effect on him in that they basically put someone in a cell—I'm not

advocating this, but this is what they do. They put somebody in a cell and they feed him and that's about it. It's a very cheap—

Interjection.

Mr Skarica: No, it's a very cheap way of incarcerating people and it's different than what we do. I'm not advocating it. But how does their recidivism rate compare to ours? Does anyone know?

Mr Aharan: I don't profess to know a great deal about the French system, but one comment. I am fairly safe in being able to say that their rate of incarceration is far, far lower than ours. Canada, and Ontario in particular, has a very, very high rate of incarceration, which suggests to me that the allocations of dollars and resources is consistent with that high rate of incarceration. We expend about 80% of our correctional resources on 20% of our client group.

My understanding in France is, that while they are not a soft-on-crime jurisdiction at all—I don't think the French would ever be accused of that—they have, comparatively speaking, a much lower rate of incarceration. Something around 50 per 100,000 against our 116 per 100,000 comes to mind.

1140

My thoughts, as you offer your information, tell me that perhaps they are targeting their resources and expenditures in their criminal justice system in a somewhat different way. I'm not sure if we want a gulag with one meal and bread. I don't know if that's really palatable in this country or not. I certainly hope not. But I do think there is a point to be gleaned from this, and that is their allocation of resources in terms of their incarceration strategy, because that is significantly different than here in Ontario.

Mr Skarica: In fact, I think we have the highest incarceration rate in the world.

Mr Aharan: Depending on how you measure it.

Mr Mike Colle (Oakwood): It's all those crowns trying to get their Brownie points.

Mr Skarica: I guess they're doing their jobs. As an alternative to that—that's why I'm interested in the French model. What are they doing if they're not incarcerating people? What are they doing differently?

Mr Aharan: I do not know that specifically. I only know what they aren't doing. They are not incarcerating in the huge numbers that we are, so presumably they are doing things that are more community-based.

Mr R. Gary Stewart (Peterborough): Because we're involved these days with limited dollars and we must spend them very wisely and very efficiently, I'm concerned. Do we have a whole group of organizations that are doing similar things and we are diluting the dollars by supporting a lot of agencies that could be better spent in one or two or three and doing the job a little better? That's one question.

The other one is that I've listened to you this morning, and I appreciate we're talking about parole and what happens after, but it appears to me the big picture should be, "What are some of these groups doing prior to incarceration?" I think that's where we're losing it. We're doing everything after; we don't seem to do much before. I would suggest to all of the groups that have come in,

why aren't one or two of you shifting your focus on to pre-incarceration rather than the other, and are there too many groups diluting the various programs you're trying to offer?

Ms Stanowski: Your first question is a good one. It's a question our own organizations are asking ourselves: How can we work better with existing resources? There aren't any new dollars. We're the first ones to acknowledge that. We're clearly examining those types of partnerships so that we're building on successes. We're examining that and streamlining most of our organizations. I certainly would compare most to having a very efficient administrative structure. I can speak personally for ours. We're at about 8% administration, which is pretty darn good when you start stacking that up, and that comes from partnership.

Your second question is probably one of the most astute I've heard today and through the January 31 proceedings. Your question suggests that if we do not deal with crime before it occurs, we're constantly going to be dealing with the aftermath, with victims, with harm done to this community. What groups are doing, and I certainly speak for myself and other colleagues in the field, is trying to reach those kids, who are quite easily identified at about six years old, who are likely to be the ones to be involved in trouble.

Hopefully, our work, coupled with that of the educational system, will augment our ability to intervene. Very importantly, you're also looking at efforts—I can speak for one of our programs. We're going into schools speaking to 12- and 13-year-old kids, taking in another young offender who is stabilized, who has been through it, to talk to other kids, trying to get a message through that a life of crime, dropping out of school, drugs, is not where you should be.

That is a very important consideration. CITY-TV is doing a special right now on that very issue: What brings people to trouble to begin with? What sorts of things can we do to responsibly intervene in that situation?

You're seeing many examples of programs that are very effective. My concern, and I think my colleagues would agree, is that it is not a popular agenda right now. If you examine the health care system, prevention you don't see right away, do you? You may see it down the road in fewer smokers, more people living longer. How can we really examine the tangible results of investment in crime prevention?

It's the first on the agenda to go, because we are not perceived to be tough on crime, trying to get to that six-year-old kid perhaps 10 years ahead of a murder he or she may commit versus, "Lock them up and throw away the key." That strategy is simplistic, and it has to be supported by responsible investment in dollars to prevent crime from occurring and to prevent victimization.

Mr Colle: I want to thank all of you for your very precise and informative presentation. The written submission gives us some good examples, like the Connecticut example where they tried what Ontario's trying now, basically to incarcerate everybody, but they realized they were just throwing money away and now they've gone back to community intervention. Were any of your organizations consulted before the October closures, in the middle of the night, of the halfway houses?

Ms White: I can speak to that very directly. In late September, we received the first rumours—we were slow to get the rumours—that the halfway houses might be closed. We met efficiently as a group of concerned organizations. We prepared correspondence for the minister's attention. It was delivered to his office five days prior to the closure. We received a reply to that letter in January. Prior to that, in November, his deputy had arranged to meet with a few individuals.

Mr Colle: So there was no prior consultation. Has there been any consultation after the fact with ministry officials on the response to the closure and the effect it's having on people under your charge or in your organizations? Has there been any systematic consultative process after the fact?

Ms Stanowski: Not that I'm aware of. Some of this will perhaps come through research that may come to light some months from now. In terms of consultation, I think some groups have met with Mr Runciman, but there are very limited opportunities at this time for consultation. Some strategies are being undertaken, such as electronic monitoring, that at this point do not appear to be involving groups such as ours in consultation. It is said the province will be running this, government employees will be running this program, and at this stage we're not at the table in that form of consultation.

We hope that will change. Clearly, if you see a group such as ours here today, you will recognize that we're not a group that is soft on crime. We're a group that has hundreds of years of experience. I relate more to our organizational years than to our own personal.

Mr Stratton: I think the only opportunity coming about is an invitation to speak to the standing committee on the administration of justice regarding halfway houses and electronic monitoring. Five or six months after the closure of the houses, we're finally getting to say something.

Mr Colle: The thing that strikes me is the fact that even though they've talked about these electronic monitoring devices, it seems there have been no changes put in place for people to potentially access—the criteria. There's no hint of changing the criteria.

Mr Aharan: I'd like to bring it into the focus of parole. One does not necessarily replace the other. I don't think that a bracelet for a developmentally challenged offender provides them with the kinds of supports necessary for them to make their way in our community and live a law-abiding life.

1150

Mr Colle: In other words, you can't just put a bracelet on a person who might have developmental problems. It's just not going to work. It's not a quick fix, you're saying.

Mr Aharan: That's one example. We would like to say that we see the application of modern technology as having potential, but we do not see it as a panacea, nor do we see it as a replacement for all other community-based services. It probably falls within a range of options that I believe a modern correctional service would want to employ. We would like to attach that to the primary question before you today, that is, the issue of conditional release or parole. There is that spectrum, and we encourage you to consider a broad application of that spectrum,

as it is an efficient use of your resources, as it maintains your capacity to incarcerate the most serious offender. We share the concern, very definitely, about protection of our communities, but we see these things, including parole, as a range of options for the citizens of this province.

Mr Colle: The figure was that we spend \$400 million a year on incarcerating people. That's 50,000 at \$80,000 per person behind bars.

Ms Stanowski: This is the first time I've seen that number in the context presented in the auditor's report. The figures we have normally relied on have been approximately \$140 a day to keep an inmate incarcerated, which is about \$51,000 a year. That number may include some capital costs that may fluctuate. I can't address it. Still, regardless of whether it's \$50,000 or \$80,000, the low end, \$140 a day to keep somebody in doing a very short sentence, is what we're here before you to save you. That money can be more wisely invested. To refer to the gentleman's point earlier—I'm not sure who—

Mr Pouliot: Mr Stewart. He'll vote the other way.

Ms Stanowski: His point was, can those dollars be invested in prevention? How can we prevent more victims in our communities? I think those questions have to be asked.

Mr Colle: Basically, what you're telling us is not so much that we need new dollars; we need to invest our dollars more wisely and not just throw \$80,000 at each person that some slap-happy crown puts behind bars because he's trying to get a promotion up the ladder.

Ms White: I would like to add a comment to what Mr Stewart had been saying about provincial support for the community-based organizations. I understood him to ask, was it a reasonable matter in times of fiscal restraint to provide funds to a diversity of community agencies who may be providing similar services? If I understood that correctly, I would point out that it was the decision of this government six months into the current fiscal year to discontinue all forms of grant programs to all community justice agencies in this province, so at that point there was no longer a financial relationship.

Ms Martel: Let me say to all the presenters that we appreciate your coming here today and taking the time out of your schedule. I was going to make a comment on your years of expertise, and it wasn't in chronological terms either. Let me ask four questions to all of you, and whoever wants to jump in and answer can do so.

First, I want to go back to the auditor's report of 1993 and quote to you what it said. The auditor stated, "We agree with the ministry that increased use of community programs would provide more flexibility for closing units in correctional centres." In the same document, the ministry itself said: "The ministry recognizes the importance of the role played by community programs in correctional services. We anticipate that the results of this review will provide the framework for determining future directions with respect to institutional and community programs."

All of you have made very clear to us the benefit, in terms of cost-effectiveness, of community programs. Why then do you think one of the first actions this government took was to close 25 halfway houses?

Ms Stanowski: That's a very good question, and we don't have a lot of time remaining to get into the details. Perhaps there was an assumption—and maybe this is part of our responsibility, that we haven't done a good enough job in marketing what we do, what these community programs are really accomplishing. You have to look first to the community groups operating this program. Perhaps there was a misunderstanding. I think assumptions were made that these halfway houses were subsidized housing. We operate non-profit housing, and trust me, there's a major difference between a person going into subsidized housing and somebody going into a halfway house.

I think it was an understanding that should have been made on a better assessment of the facts, questions such as, were the offenders who most needed those halfway house beds getting access? Were we—and again I'll include community groups with the government and institutional heads in this—making decisions too cautious in accepting appropriate clients to those homes? I could make a case that would state that we should have those most in need living in those homes—they're integrated into neighbourhoods—and perhaps we were taking clients that did not most need that type of service.

I would say that there could have been some faulty assumptions that existed at the time.

Ms Martel: Part of the reason we think this was done was to save some money. It's interesting, because in the Common Sense Revolution the Tories made it very clear that funding for law enforcement and for justice would be guaranteed. I want to know if you are aware, with the closing of the halfway houses, whether any of those funds have been reinvested in other correctional programs?

Ms White: Not to our knowledge, although there's been quite a substantial capital investment in the electronic monitoring technology, which we believe has yet to see more than a handful of releases.

Ms Martel: In terms of mechanisms around conditional release, which you spent a lot of time on this morning, have you seen any expansion at all in any of those mechanisms which would save the province money instead of us spending the huge amounts we are right now on incarceration?

Ms Stanowski: No. Quite the contrary.

Mr Aharan: I think a worthwhile question at this juncture is to assess what the current population is in Ontario jails and correctional centres and look at that today and compare it. I think that would be a valuable exercise.

The question is not a simple one, however. When one looks at cost, in order for community-based initiatives to not be a cost add-on, there must be a complementary cost saving. The difficult nature of that issue spans all, shall we say, political stripes; that is, the operation of a correctional facility, particularly a small one, is exceedingly expensive on a per diem or per capita basis.

The investment strategy that many groups would report requires that the number of beds is reduced. You can't save money in a correctional administration, in a correctional framework, unless you reduce beds. The United States, for those of us who work in the business, is the most graphic example of that. Once there is a prison bed, it will be filled. That's almost a tautology. Therefore, this

requires the very difficult decision on the part of legislators and policymakers to close beds, to better target the allocation of that scarce resource for those individuals who most require it. That is the proponent, I think, that we put forward.

Ms Martel: One final question is with respect to consultation. I know Mr Colle asked you specifically about consultation around the halfway house issue. I want to broaden that a little. For any of you or the organizations you represent or the organizations which would be representative of community-based alternatives versus incarceration, has there been any chance to meet with the Solicitor General to put forward positions, solutions, recommendations you have to better use the resources we have in the criminal justice system (a) to ensure we continue to protect public safety but (b) that we also ensure that people don't repeat offend?

Ms Stanowski: Groups representing various organizations met with the deputy minister last November, with Elaine Todres. I believe a representative from the Salvation Army has met with Mr Runciman very recently. We have been afforded opportunities to appear before the strict discipline committee—at which we were very well received, I might add, similar to how we're being received today—and other opportunities certainly to present briefs. But at this stage, other than what Arthur Stratton referred to, an appearance before the standing committee on justice which I believe will be at the end of March, there haven't been formal opportunities for consultation. We hope that will change, because we think this is a business government that will listen to economic sense about safer communities and what makes economic sense in promoting safety. We will continue to request meetings and we think you will listen.

Mr Stratton: Also, in the past there was in place a process known as the minister's consultative committee, which included all the stakeholders within the correctional community, most of the volunteer organizations. That committee has not been in place for at least a year, and currently I believe it's being shown as not standing, with no standing members, and under review. That was always a very beneficial process because it had all the players involved being able to speak directly either to the deputy minister or the minister himself.

The Chair: Thank you very much for your time. On behalf of all the committee members, I want to thank you for sharing your years of insight with us on a topic that's obviously of very great interest to us.

1200

ELIZABETH FRY SOCIETY OF TORONTO

The Chair: The next presentation will be made on behalf of the Elizabeth Fry Society. Welcome.

Ms Claire Price: Good afternoon. My name is Claire Price. I'm president of the board of directors of the Elizabeth Fry Society of Toronto. We're a local agency. I understand that you have a presentation by the provincial council of Elizabeth Fry Societies on Monday. That's a separate body.

Our agency was founded in 1951. I'd like to go through some of the services the agency provides. We have a 14-bed halfway house and satellite apartment; we

have an employment retraining program; we have group counselling in the areas of incest-surviving, shoplifting, drug and alcohol counselling; we have one-to-one counselling available with social workers; we provide a court worker program at the College Park courts in Toronto; and our social workers visit the Metro West Detention Centre, the Vanier institution and the prison for women in Kingston.

We understand the role of the Ontario Board of Parole to be protecting public safety and facilitating the rehabilitation of offenders, and we fully support this role. We encourage the committee to visit a correctional facility—I'm not sure whether you've had the opportunity to do so—and we would also encourage the provision of advance notice to inmates so that they may have an opportunity to give presentations to the committee. Obviously, they're the group most directly affected by the operation of the parole board and probably would have quite insightful comments as to the effectiveness of the parole board.

I noticed in the Hansard transcript from your proceedings in January that one of the suggestions made was to visit the Metro East Detention Centre. I would encourage you to visit facilities that house female offenders also. There are female and male offenders housed at the Metro West Detention Centre. However, when women are classified, they're generally classified to the Vanier institution, so I would encourage the committee to visit the Vanier institution as well as perhaps a male institution.

In the interests of saving time, I don't intend to repeat a lot of the statistics that have been cited by other groups with similar interests in this area. As you can see from the brief we've presented, our recommendations are essentially very practical. I should perhaps add that in addition to being president of the board of directors, which is a volunteer position, I am by profession a lawyer specializing in correctional law, so a lot of my dealings and the dealings women we serve as an agency have had in front of the parole board are reflected in our brief to the committee today.

Our first recommendation is that level 1 inmates—and please don't hesitate to interrupt if there's any terminology that you'd like clarified. Level 1 inmates, as you may or may not be aware, are inmates who generally are incarcerated for offences of violence, and I believe driving offences that cause bodily harm and death have been added to that list recently.

Our recommendation is that these level 1 inmates should receive a thorough psychological or psychiatric assessment before appearing before the Ontario Board of Parole. Currently, the professional clinical assessment is mostly completed by social workers within the institution. While this might be useful in providing a history or summary of life events, we don't believe it provides a sufficient in-depth psychological risk assessment of the offender.

We also recommend that the quality of the reports be closely monitored. We agree with the committee's former report that there should be an established mechanism for exchange of information between the board and the ministry as to the quality of reports being received. Police recommendations as to parole can be addressed effectively through the pre-parole reports also.

The Elizabeth Fry Society of Toronto would find it very helpful for these reports to be shared with their residential social workers and the social workers who visit the institutions. We're frequently asked by the inmates to write a letter of support, and we find that because we don't have access to the information the board has, we frequently end up writing letters in somewhat of a vacuum. Provision of that information also would assist us in assessing the risk level of the individual we've been asked to support.

We noted in the committee's last report the concerns of correctional staff and police that should be addressed. We would like to put forward that these concerns, while very valid, should be only one of many factors to be considered by the board. Our concern is that the board not be viewed as being partial to any group and that it reflects indeed what it should be and what it hopefully is: an independent administrative tribunal.

If the concerns of correctional staff and police were to be shared a lot longer before the parole hearing, the Elizabeth Fry Society could perhaps provide some useful linkage in the sense that we could link up to programs in the community with the offender which would address the concerns of the correctional staff and police, or even sooner than release we could provide one-on-one counselling through social workers attending the institutions that could directly address those concerns. The sharing of information is an important point in us being able to provide efficient services also inside and outside.

One of our main recommendations is that all information relied upon in the hearing be shared with the inmate. I'm not sure whether the committee has seen the leaflet that's provided by the Ontario Board of Parole, *Preparing Yourself for Parole*. It's provided to inmates prior to their application, and in the leaflet there's the statement, "Written file information may be given to the offender before the hearing to help prepare themselves for the hearing." However, they're not told how to go about accessing that information and most unrepresented inmates have not had access to that information. They don't have the sophistication to know how to go about getting that information.

In the federal correctional system, the Corrections and Conditional Release Act mandates that all information that is going to be relied upon by the board must be shared with the offender at least 15 days prior to the hearing.

The sharing of information, we believe, is a very important part of the principle of administrative law and it's a fundamental part of the right to a fair hearing. We believe that offenders should automatically be provided with at least the basic information, which would include the pre-parole report, any clinical reports, the police reports, victim impact statements and any institutional reports.

Our concern around the Ontario Board of Parole having two members—while we appreciate that it has saved substantial costs, the issue for us is what happens when the panel becomes deadlocked. We have a concern that any rehearing be given priority in scheduling and hopefully still be completed prior to the inmate's parole eligibility date.

With regard to the training of board members, we would agree with the committee's concerns in the last report regarding board members' interviewing skills, assessment of information and setting of parole conditions. We believe that board members should be provided with intensive initial training in areas that would include interviewing skills and basic psychology, which would improve the understanding of the clinical reports and would lead, we believe, to improved risk assessment at the hearing. And we believe they should receive criminal justice training as to how the system is supposed to work and how it works in reality, which are often two different things.

We believe sociological training would also be helpful, as well as gender-based training, which is currently provided to judges. Often, the reasons women come into conflict with the law may differ from those for men. For example, sometimes women would be in abusive situations, and it's frequently the case when you have women who are incarcerated for drug offences that there is some abusive relationship behind that, or that a large element of pressure or coercion has come from a partner or relationship situation.

1210

The setting of parole conditions should take account of any probation conditions which may have been set at sentencing. Our experience is that the conditions the board sets often are not as detailed or extensive as parole conditions may be, and obviously they should dovetail to be most effective.

In terms of the accountability of board members, an important point, and it's one that was brought up by Mr Stewart at the John Howard Society presentation, is that board members should not only be accountable for decisions when they have granted parole and there has been recidivism after that, but also we believe there should be accountability for denial of decisions where the inmate was so obviously ready at the time.

An important point is that a lot of times inmates come before the hearings when they have completed treatment programs, when they've set up things for themselves in the community that would reduce risk to the community and to themselves, and their motivation at the time they appear before the board is usually very high. After a denial, the inmate of course loses motivation, becomes cynical and may indeed provide an increased risk to the community upon release at the two-thirds stage.

An important point I'm not sure has been addressed by other groups is that the Ontario Board of Parole needs a separate, impartial, effective appeal body. Currently, the chair of the board may review decisions. In our view, this does not lead to the inmates viewing the process as being impartial, as the chair is too closely linked to the original panel. Also, the criteria for reviewing a case are not specified in the legislation, so the inmate doesn't know which factors will be considered to be relevant in such a review. There often seems to be confusion at the board level as to whether the chair is to only review the information that was before the original board or is to take into account new information that has been submitted since the original hearing.

We're also recommending smaller, more detailed practical matters, such as decisions being typed. We

believe that if decisions are clearer, more substantial and legible, this would provide more guidance to parole applicants and may reduce the number of applications for reviews and appeals, which in itself might save some money.

In terms of measuring the effectiveness of the board's decisions, this is probably dealt with at quite an intense level before the committee, but we would encourage you to look at problems with supervision in the community which may also contribute to the level of effectiveness. Sometimes there can be extensive waiting lists for treatment programs in the communities; there can be a highly negative relationship with a parole office which may impact that particular individual.

Also, there's a large element of subjectivity involved. When you're looking at the effectiveness of a board, one parolee's success may not be defined objectively as a success, but for that particular individual it has led to a direct decrease in the risk of reoffending. For example, a parolee who has a condition not to drink, which may be a direct cause of the offending throughout the whole criminal record, may be able to abstain from alcohol but may be put back into the institution on a technical violation, perhaps not providing a change of address or a new employment name right off the bat.

With regard to offenders serving less than six months, we share the committee's concern that this category makes up 80% of the 50,000 inmates admitted to Ontario jails in 1994 yet only 3% receive parole hearings. We support the idea of a pilot project such as was mentioned in the report as the one in British Columbia, where any inmate serving over 90 days is automatically scheduled for a parole hearing.

The right to apply to the board for a parole hearing should be more widely advertised perhaps so that more short-term offenders could take advantage of this.

Also, there is an issue of linguistic difficulties. I'm not sure of the percentage of the inmates who speak different languages and who'd speak very little or no English, but clearly that's a group that needs to be addressed and often is included in the short-term offender group.

With regard to the temporary absence program, obviously the option of halfway house beds as a part of this program has been substantially reduced. The option is obviously more cost-effective than incarceration. The use of other temporary absence options, such as institution-based temporary absence and extended community temporary absence, in our experience has been very sparingly used. Perhaps this could be more effectively used. This might in turn reduce the need to look at addressing the needs of short-term offenders for parole.

The electronic monitoring program which has just come into operation in Ontario, and I believe it's only been in operation for a few weeks now, is only available to inmates in the last six months of their sentence, leading up to their two-thirds date. By that time, many offenders have lost their jobs. They've lost their families even. In the case of women, many are single mothers. To be able to hold on to their children is a huge thing in their lives, and they lose their families by being incarcerated and not being able to access these temporary absence programs and electronic monitoring programs.

There is no electronic monitoring program currently available to women. The information we have is that when and if it does become available, it's going to be done through a male institution. I'm not sure how that's going to work, but we have concerns about that also.

In summary, we'd just like to recognize the efforts at change by the Ontario Board of Parole but encourage them to adopt some of the recommendations for further improvement.

Mr Agostino: Thank you for the presentation. My first experience as a student was with the Elizabeth Fry Society. I was involved in one of my placements from college with what was called the fine option program at that time, a pilot project through the Elizabeth Fry Society in Hamilton. It would take young people, particularly those who had been put in jail for non-payment of fines or drinking in public, some relatively minor offenses, and under that system, once they got picked up, they were put in jail for a week, two weeks, 10 days or whatever the situation was. The program itself—and I think it was very successful and it's continued today in different forms—basically looked at the amount of the fine, calculated it into a wage range and said, "Okay, instead of spending 10 days in jail, if you owe \$500, you have to do 100 or 125 hours of community work to offset that."

I think it benefitted tremendously. I know it's being used today and now it's used at the court level. It works well and I certainly want to commend the E. Fry for being in the leadership role at that time. I think the program should be much more widely used, and in different ways, across Ontario.

With regard to your comments on the parole board, I guess one of the questions or concerns I have is that—and it's not just this government—traditionally appointments to parole boards and to other boards have generally been made by the government of the day, often as partisan political appointments. Again, that does not only limit it to this government. I think that's been the way it's been done for a long time around here. So often the philosophy of the parole board can be stacked and can be driven very much by, if you have a government that decides the parole board should keep everybody in, you load the parole board with people who think they should do that, and if you have a government that believes that the board should be more flexible, you load the parole board with people who will show more flexibility.

In your view, would it help if there were a system where a determination was made by, rather than a parole board that is now appointed under the structure that we have, a format that's been experimented with in some areas where you have sort of a joint community board made up of representatives from a cross-section of community organizations and agencies that will understand the social, the police aspect of it, the agencies involved, all of those other factors that the community needs? Would that system, in your view, be more fair, give us a better assessment and really take away political stacking of boards that, either good or bad, may not often reflect the reality of the situation and be fair to the individuals who are seeking parole?

Ms Price: Yes, absolutely.

Mr Agostino: In Brant county there is a system there that has recommendations from a joint community board looked at before a parole board makes the final decision. On that board I guess the police are represented and a number of others. Ultimately, the parole board makes the final decision, but there's a system in that community where that board gets to make the recommendations, and it's based on the area of release as well. There's input there from that individual, from the community that the person is going to be released into. How much of a role do you believe the community and the agencies in communities where that person will receive parole or will go to a halfway house should have in that decision, which the parole board should consider?

1220

Ms Price: I believe there should be strong involvement of the community in that decision-making process. It sounds to me very similar to—we have federal parolees, and as part of the process of acceptance into our halfway house for federal inmates, their cases are reviewed by a committee which is made up of a police representative, community representatives, as well as staff and agency representatives. I think that's probably the fairest from everybody's point of view. Everybody gets an input. Everybody feels that this is an acceptable risk, and that move is taken. So I would encourage strong community involvement in the decision-making process. I see it as far preferable to a partisan, political-appointment process.

Ms Martel: I wonder if you can give us a profile of some of the women in institutions whom your social workers are working with.

Ms Price: About 80% of the women that we serve have been either physically or sexually abused. A typical woman that we would serve would be between the ages of 21 to 31, often a single mother, low level of education, frequently in abusive relationships.

Ms Martel: Of that group, how many of them would be incarcerated for violent crime?

Ms Price: Very few.

Ms Martel: What happens then? What happens to the overall cost to the system when you have that level of incarceration with women who basically are not there because they've committed a violent crime, who because they're going to be incarcerated versus having some kind of temporary release program, are going to end up losing their kids as a result? What's the overall cost to the system of us dealing with people in that way?

Ms Price: I think you not only have to look at the cost of incarceration, I think you have to look at the cost of keeping those children in the children's aid society or in foster homes, intervention perhaps down the road with the children themselves coming into conflict with the law, which is often a cycle that's repeated. You'd have to factor in the cost of those children to the family unit as a whole, as well as job losses.

Ms Martel: Can you just give me a sense of what crimes these women have committed that would get them into this situation? Are we talking about shoplifting?

Ms Price: Yes. Generally, property-related offences: shoplifting, fraud, that sort of thing.

Ms Martel: Is your halfway house still open? I noticed on the front you talked about what you do, and that you also had a 14-bed halfway house residence.

Ms Price: It is open. We have federal beds and currently we still have provincial beds. I'm really not sure how long that's going to be the case. I would really hope that it continues, because women do not have access to the electronic monitoring program, so I would encourage the government to maintain our halfway house beds.

Mr Hastings: I'd like to compliment you on two areas, trying to get some of the agency social workers more involved in the overall risk assessment when they come up for parole, and secondly, your suggestion about an independent appeal system, although I don't necessarily accept the possibility that it would have to be a separate one.

I'm wondering if you could comment on how the quality of reports or the use of information would be helpful to parole board members if you're going to sanitize—that's what I'd call it—or leave out the negative aspects of a potential parolee's report? How are they going to know and combine that with ensuring public safety of these folks if you're going to remove most of the negatives, if not all of them?

Ms Price: I'm not advocating removing the negatives; I'm advocating removing the subjective negative comments. That's not a comment, for example, that would come from the police saying that this offender is a danger to the public. What I'm referring to in that comment is a comment made by the parole officer or the author of the report that would comment on other people's comments, which I frequently, as a lawyer, see in reports.

Mr Hastings: So it's sort of a negative editorial comment about the individual's behaviour.

Ms Price: Yes. It doesn't come across as being independent and fairly evaluated.

Mr Hastings: I think you have a good suggestion in terms of the sharing of the information. My concern is, how would this type of information be structured so that it's shared effectively yet not open up liability to those who are making the decisions? There are privacy issues involved here in terms of how a potential parolee's progress is coming along, I would suspect, if it's in an institution like Vanier.

Ms Price: In the federal system, all that information is shared with the offender and there don't seem to be any privacy concerns there.

Mr Hastings: No privacy concerns at all? Then how do they get around—there must be a way that they have the reporting system in place so that there is no possibility of liability for these people under charter cases. They must be able to get the info to people without these other complicating issues arising.

Ms Price: Are you referring to privacy issues around victim impact statements in particular?

Mr Hastings: Privacy issues I would think around the individual's risk assessment, potential for being able to perform in the community, that kind of thing. What I'm trying to get at is, I'd like to see this occur if it can be done federally. I'm just wondering how they're doing it on their disclosure forms so that it removes completely any potential liability against the people who are making these decisions, because in some instances where you have reoffending people, there has been—rarely, I would admit—probably a charter case, because there are always folks around wanting to exercise the rights of the prison-

er, whatever gender, in the system. You see that occasionally.

Ms Price: I'm not quite sure what you're referring to. Do you mean inmates challenging parole board decisions to keep them in?

Mr Hastings: Yes, because perhaps one of the factors that was used could have prevented that individual from getting either first-time release or second.

Ms Price: In the federal system, the information is shared through CSC, Correctional Service Canada, reports. They operate, as you may be aware, on a case management model, where the case manager and the case management team would summarize the institutional progress through progress summaries. Also, psychological reports would be shared.

But people are still accountable for what they say, and I believe it's our view that individuals still should be accountable because the inmate should have an opportunity to address any concerns fairly. If the concerns are on the table, then it can be dealt with in a more direct and honest fashion. The charter challenges that I'm aware of would be available in any event and probably would not particularly be addressed to an individual but more addressed to the institution or the body making the decision.

Mr Hastings: Mr Chair, can we ensure that we get any reports or forms the federal Correctional Service Canada is using in this regard that are made available to the parole board?

The Chair: Yes, by all means.

Mr Agostino: Can we get a copy of the form that they use in regard to the community structure that was referred to earlier? If we can have that as well, the community-based review board that is set up to make recommendations and what the structure of that is like?

The Chair: Fine. We'll do that.

Ms Price: That's mandated in CSC contracts.

The Chair: Thank you for your presentation.

ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Chair: The final presentation this morning will be made on behalf of the Ontario Association of Chiefs of Police. Welcome. Thank you for your patience.

Mr Jack Delcourt: Good afternoon. I'm Jack Delcourt and I represent the Ontario Association of Chiefs of Police. As chair of the legislation committee of the Ontario Association of Chiefs of Police, I thank you for the opportunity to appear before you to comment on the 1995 Annual Report of the Provincial Auditor. The activities of community services and the Ontario Board of Parole are of definite interest to us. We were asked to comment on two particular sections, which are 3.17 and 3.18 of that report, and I will limit my comments to those two sections.

Membership in our association includes the chiefs of police of all municipal police agencies in Ontario. In addition, the commissioner of the Ontario Provincial Police belongs to the OACP, and membership is open to senior officers of all police services. The Royal Canadian Mounted Police is also represented, and we're pleased to have many prominent individuals from the private sector as associate members.

1230

We strive to respond proactively and professionally to issues impacting on the quality of policing in Ontario. Our goal is to provide a safe environment for our citizens so that the climate may be conducive to an improvement in the quality of life.

This panel had the opportunity to hear presentations from the Ministry of the Solicitor General and Correctional Services and the Police Association of Ontario. Having been provided with a transcript of their comments, I will not repeat what you've already heard. Therefore, you'll be pleased to hear that my presentation will be a short one and you may have some time for lunch.

At the onset, I wish to state that we, as an association, support the position taken by the Police Association of Ontario. We're concerned that changes to the justice system, even the more simple ones, do not take place as they should. To be more specific, we find it very difficult to get the agreement of the stakeholders to streamline the system. Consequently, our police services must sacrifice front-line resources to handle matters which have been downloaded to us.

I suppose that, as a body, policy officers in this province have been less than vocal in accepting the extra work, but this is about to change. We regret that we can no longer accept additional duties when alternatives are available. We will demand that other partners in the system handle what is rightly their responsibility. It is likely that some may view our new approach as militancy. I hope this committee understands that this stance is due to the critical lack of funding for our work. We are certainly not looking for confrontation, but we will be firm in demanding that all partners demonstrate a willingness to come to grips with the issues of the day.

Our association wishes to discuss a few specific recommendations and comments found in the auditor's report. Initially, we will deal with community services activities.

First, we were somewhat surprised to discover that the rate of non-compliance with probation orders is significantly high. Further, the auditor commented that the final date for laying a charge was often overlooked. As an association, we view the granting of probation as a chance given an offender to prove that he or she is ready to assume a responsibility. If that person fails to comply with any of the conditions in the probation order, without justification, a charge should automatically be laid, unless the non-compliance was found to be beyond the offender's control.

We find the ministry's response to be less than adequate in this instance. Creating more paperwork is no solution to the problem of non-compliance. We do not find any resolve on the part of the ministry to prosecute those who openly flaunt the system. Our experience clearly demonstrates that abuses will continue to occur until proper action and decisive action is taken. We recommend that the ministry adopt a policy of laying a charge against every offender who fails to comply with the conditions of parole.

Second, the auditor mentions that as a policy, non-compliance is deemed to have occurred only after

offenders have missed at least three appointments without contacting their probation-parole officers. Again, we must state that we are concerned with this lenient approach. We cannot understand why offenders are given so much latitude to ignore their commitments. We are distressed that the ministry's response fails to address the problem with any degree of specificity.

We find no evidence of any resolve to curb the incidents of non-compliance. The terms "timely response" and "review of its policies and procedures" mean little in terms of positive action. If the ministry is serious about non-compliance, then specific instructions as to what constitutes non-compliance and the laying of charges should be provided to probation-parole officers.

Third, we disagree with the ministry's statement that "sentencing practices routinely place an emphasis upon the offender compensating the victim." Our experience in a number of courts in Ontario shows that judges are reluctant to issue orders for the compensation of victims. We believe that a large percentage of offenders who do not comply with restitution orders have the means to do so, but simply ignore their commitment. It is, therefore, imperative that such offenders be dealt with swiftly by probation-parole officers.

The ministry's response appears to downplay the auditor's recommendation by concentrating on the offender's inability to pay. We believe that position to be contrary to the intent of the order. If a judge, after considering all aspects of a case, orders that restitution be made, it becomes imperative for persons employed for the purpose of ensuring compliance with the order to take action when there is obvious and wilful disregard of the order.

Finally, we are very concerned that, in one area surveyed by the auditor, the lack of proper documentation leads us to believe that almost half of the offenders may not have complied with the treatment conditions. In our view, the lack of treatment becomes a serious safety issue for the community. In fact, many orders requiring treatment are issued instead of incarceration. We fully agree with the auditor that offenders who, after counseling, wilfully fail to comply with a treatment order should be brought before the court for a more appropriate sentence. The response of the ministry is somewhat cryptic in that it refers to a memorandum issued in June 1995. A somewhat cynical comment would be that memoranda do not solve problems unless they contain specific directions to the officers. We are not aware of the substance of the correspondence.

Our comments pertaining to the auditor's review of the Ontario Board of Parole are of a general nature. We believe that police and other agencies provide more pertinent and timely information to the board members than in the past. Consequently, we expect that the determination of an offender's threat to the community will become an easier task. We have a vested interest in this issue because our workload is affected by decisions of the board.

We are pleased to read that "recommendations of police and corrections staff concerning an offender's suitability for parole are highly regarded by the board." We commend the board for recognizing the importance

of discussing probation and parole recommendations with stakeholders at the first reasonable opportunity.

The effectiveness of the Ontario Board of Parole can be measured. It is our recommendation that initiatives undertaken by the board be the subject of a review at the end of 1996. In particular, our association is interested in the results of the two-part research strategy which should have been developed by now and should produce pertinent data by the end of this year.

Please be assured that our association is prepared to work with any ministry to help streamline the justice system. We hope our comments will be of some use to you in your deliberations.

1240

Mr Pouliot: Thank you very kindly. I echo the sentiment that from time to time schedules for some, in this case for all of us, have been disrupted. We certainly appreciate your patience and presentation.

Candidly, I couldn't help but reflect, as I was listening to your brief presentation, on the consistency that the people you represent have exemplified over the years, that of a tough line on crime. There's no pretext here: the commitment to protect society and enhance all our lives.

I wish to draw your attention to page 6, the second paragraph, and I quote: "Finally, we are very concerned that, in one area surveyed by the auditor, the lack of proper documentation led us to believe that almost half of the offenders may not have complied with the treatment conditions." Going past the cloak and dagger, notwithstanding the intrigue, that very wording brings a natural question: What led you to believe that half of the offenders may not have complied with the treatment conditions? Was it the tone of the auditor? What did the auditor say?

Mr Delcourt: I believe the auditor referred to it. It's at page 254. It seems to me that the auditor was commenting on the lack of adequate documentation, and as a result of that documentation, it was the auditor's impression that almost half of the offenders may not have complied with treatment conditions, and that worried us considerably, as you may well understand, because we're concerned for the impact on the community.

Mr Pouliot: I see. Thank you. If I further put this into context, the mandate is value for money. Are Ontarians, the taxpayers, getting a fair bang for their hard-earned dollars, that he does not handle? Someone in there is either negligent, by way of lack of resources, not by intent, never, but they don't know what they're doing, to such an extent that almost half the people—we speculate, but it's sort of an educated guess. We have reason to speculate that it could be half. Even if it's a ballpark figure, it's a fairly accurate one, the lack of compliance, and you're saying give the benefit of the doubt.

You know that the auditor's role is not one that will dwell on the nuts and bolts too much, but it paints a vague picture of whether a program works well or not. It throws the ball back to the ministry and as a watchdog it says, "Well, I see a malaise here; my role is not to tell you how to fix the malaise but I await your response," which should start focusing on the generalities evoked by the Provincial Auditor.

Notwithstanding administration, and it's my final question, if you were to come up with some recommendations—you comment but you don't come up with what

you would see as the alternative. You're the expert in the field. I'm only a politician here. I try the best I can to serve the people who have had the generosity to elect me to represent them, so I have to ask people like you, because I really don't know. I can help, in terms of legislating, but I can't do any more than that. One, two or three ideas to address the concerns of the provincial auditor: What would you do if you were sitting right here?

Mr Delcourt: I can answer that in two ways. I can answer that as a representative of the association, which I'd rather not do; I'd rather answer it as a chief of police, as an individual, and I say, listen to the people who came before me. They had some good ideas. They had some good ideas about halfway houses. I was on the board of directors of a halfway house that got closed down and I deplored that. I think you get better value for your dollar by having halfway houses than having people in custody. That's my view, and that's the view of several of our police officers in my community.

Mr Skarica: Dealing with breaches of probation, a common form of sentencing, and there are probably thousands of them per year, is the suspended sentence and probation. Are you familiar with that type of sentence? And perhaps you can tell me, where are you chief of police?

Mr Delcourt: I'm in Barrie right now.

Mr Skarica: All right. My experience is in Hamilton and we have hundreds of those types of cases and what happens if somebody breaches and they do get charged is they get charged with breach of probation, they get a \$100 fine and that's the end of it. They never get brought back for resentencing on the original sentence. The suspended sentence means you can get brought back and resentenced and that never, in my experience in 12 years in the courts, happened once and I don't know if it happens anywhere else in Ontario.

It seems to me that the auditor's recommendation should go further, that in addition to charging breach of probation, if the person does get a real break and gets a suspended sentence, they should go back to the original sentencing judge and be resentenced. My question is twofold: Does that happen in your experience in your end of the world, and should it happen more often?

Mr Delcourt: Well, it doesn't happen in Barrie. I'd like you to understand what I'm trying to say here, what we're trying to say as an association. We're trying to say that if you will enforce the laws that exist, ie, breach of probation, breach of parole, and lay charges, in the short term you'll have a lot of charges. In the long term, you'll see a major decrease in breaches.

I know how it varies from one community to the other. I was chief of police in a smaller northern Ontario town prior to coming to Barrie, and we didn't have to lay too many breach of probation charges because they were dealt with automatically. There was an automatic process. In addition, the local judges took a pretty dim view of it and dealt with the breach accordingly. That took care of the problem.

It's no solution to let these things go as we do, because it gets worse and you end up with probation and parole officers having to give people three or four chances, failing to keep their appointments and what have you,

probably because they're too busy—I assume that they are—and they can't lay the charges. So we're losing it because we're not dealing with the situation.

Mr Hastings: Chief, I'm wondering what you're referring to on page 4 when you talk about police officers are no longer going to "accept additional duties when alternatives are available. We will demand that our partners in the system handle what is rightly their responsibility," da, da, da, da, da, and we end up with the constant refrain we're hearing, which is pretty unimaginative, "critical lack of funding for our work."

What specifically are you suggesting the alternatives should be for the other so-called partners in the system that they're not carrying out right now that they should be? Could you spell that out very clearly, because I take it to be—there's a little bit of a whiny tone here. There's a tentativeness to your whole approach to this thing.

Mr Delcourt: No, it's just that—

Mr Hastings: What are the alternatives then?

Mr Delcourt: We have to go back I suppose several years, to the review of the Police Act and the new Police Services Act to be put in place, additional duties placed on the police, ie, court security. That appears to be interpreted by some judges in the system as utilizing the police to do what the sheriffs used to do. And it goes from more than just providing security. I don't know if you've ever been in court. I don't know what your profession is. But in those days you will recall you had several members of the sheriff's office who would look after a courtroom. Now it's expected in some courts that police do this. Well, we can't do this any more. We just can't. We don't have the resources to do it.

This is the type of thing we're doing. That's just an example. In some other jurisdictions, police officers are expected to take documents from the courtroom to the provincial court or the general court office. These are things that cannot be done any more. We just can't, and we have to get away from that. This is what I'm referring to, this type of thing. That has to be done by people other than police officers, other than people employed by police services.

Mr Hastings: Could you spell out in a follow-up presentation or suggestions what specific things, aside from that one you're referring to, what other specific things are you not prepared to do any more, and how would you spell out who those people are, the partners you're talking about, who ought to be doing this?

Mr Delcourt: Yes. It can be done.

1250

Mr Hastings: I appreciate that.

Mr Colle: I want to thank the chief for coming here representing, really, the people in the front lines dealing with crime, and I don't at all find your report to have a whining tone to it whatsoever. I think this is a realistic tone as we see the continued downloading of the failures of the bureaucracy on to the front-line people. I think this is what this committee is trying to deal with is how to basically get more efficiencies out of the system and I'm glad that you've brought these points forward. Again, I think it's a very positive approach you've taken.

By the way, was the association of chiefs of police consulted before the halfway houses were shut down?

Mr Delcourt: No, sir.

Mr Colle: No consultation?

Mr Delcourt: None.

Mr Colle: This is incredible. Anyway, in terms of your experience, we're looking at the efficiencies of the system, and I know we've heard from the advocates to a certain extent about how the community-based halfway houses or that might be more cost-effective and might work from the inmates' perspective. As a professional police officer, how can these halfway houses really become more accountable or a way or increasing also efficiency whereby government can get a bigger bang for its buck in terms of dealing with criminality? How do halfway houses do that in your experience, from a police perspective and a person who, as you said, was involved with a halfway house in your own community?

Mr Delcourt: In our experience, there was a very low degree of recidivism involving people who went through that particular process, at least the halfway houses I'm familiar with. I can't speak for all of Ontario, but I'm familiar with quite a few of them. It appeared to be a very efficient way of doing it if people don't become involved with the law again and would have saved a lot of money all around.

Also, there's a question of the cost per day of keeping an inmate. It's cheaper in a halfway house than it is in jail. At least those are the figures that were provided to me. And I don't claim to be an expert in that regard. I'm prepared to stand corrected on that, but our administrator and other administrators of halfway houses claimed that it was cheaper, and that was supported by our local jail, to have somebody in the halfway house as opposed to having him in custody.

Mr Colle: The other question I have is in terms of the expenditure of dollars, as you know, there's \$80,000, we've been told, per incarceration spent by this government. Don't you think this money might be better spent in whatever it is, in more effective policing to prevent the crime? Because if you see police officers out there in the community, whether it's community-based policing or other ways, you won't have to spend that \$80,000 per person you're going to put in jail.

Mr Delcourt: If you're asking me if my budget could be increased, yes, I agree with you, it could be, for proactive programs in particular. And it was mentioned, I believe, by another speaker this morning that when the dollars get a little tight, the first thing to go is your proactive initiatives. That's very unfortunate, but that's the way it is. I agree with you. It would be nice to have that money to be used for proactive programs.

Mr Colle: Because it seems what is happening with the police officers is that you're basically downstream pulling people out of the stream as they drown. Meanwhile, you don't have the resources to prevent the drowning because upstream the bridge has collapsed.

Mr Delcourt: Yes.

Mr Colle: It's always after the fact that the police officers have to clean up the mess.

Mr Delcourt: It's a very complex problem. I'm not going to solve anything here by my short presentation. I think you have to take all the presentations—and I'm glad that I was here and I had to wait, because I had a chance to listen to other presentations I found quite interesting, actually. If we get all the stakeholders

together, I'm sure we'll find some solutions that are really worthwhile.

Mr Colle: So the critical message you're giving this committee is that it's important to get the front-line people together in a meaningful two-way dialogue and consultative process before we can improve the system.

Mr Delcourt: That's correct.

Mr Colle: And up until now it's been hit-or-miss or basically not there in terms of getting your advice or the advice of other stakeholders, and that's what's got to be done before we can get anywhere.

Mr Delcourt: That's correct. Now, my presentation was very focused. It was focused on two specific sections of that report. I did not get the entire report to review, so I'm not aware of what the other sections dealt with. Consequently, I dealt with what I had to, and this is why it appears to be perhaps harsh in terms of dealing with people who breach the rules. Of course, you have to understand where we come from as police officers. We're the ones dealing with the problem to start with.

Mr Colle: Picking up.

Mr Delcourt: Yes.

Mr Colle: Thank you very much, chief, for coming down here from Barrie. I'm just wondering whether it's appropriate to move that there be a directive given to the Solicitor General's ministry, even the deputy minister or the Solicitor General himself, to sit down and talk and create some kind of constructive mechanism for dialogue between these front-line people and his office before they continue making changes to the system. I think, as members of this committee, it's going to be the auditor who's going to be stuck with picking up the pieces too in terms of the cost. So before the changes are made to the system, I think it's essential that people like the chief here be given an opportunity, on behalf of the association of police chiefs, to sit down with the Solicitor General or the deputy ministers or the upper-level bureaucrats to hear from people who are doing the grass-roots work here. I don't think we can really deal with the problem adequately here unless that's done first of all in terms of getting at the solutions, the physical solutions here. That's what I think really has to be directed, and I'd like to propose that be given as a suggestion by this committee to the minister.

The Chair: I assume you're making a motion.

Mr Colle: Yes.

The Chair: I find that to be in order, and furthermore it's certainly within the power of this committee to make a recommendation of that nature. I'd like to hear from committee members on that, obviously. I noticed that the chief wanted to comment on this. Go ahead.

Mr Delcourt: The committee may be getting the wrong impression here. There is dialogue with the minister, between the minister and the association. There is dialogue on a number of issues. Now, we're talking about one specific issue here. We're talking about the closing of the halfway houses. There was no dialogue for the closing of the halfway houses, but we have met with the minister and we meet with the minister on a fairly regular basis to discuss our problems. So it's an open relationship. I don't want the committee to think that it's otherwise. I want to make that clear before you put a motion on the floor.

Mr Colle: What I was getting at is just this whole issue of effectiveness in this parole system as it is linked to things like halfway houses, and now we're getting into the bracelets. If that area hasn't been addressed yet, that's what I would like you to—because that's what we're dealing with here, basically, is that specific area. Before we go too far down the road, that's why I thought it might be good to deal with that issue. So I'm not asking for the whole spectrum of issues. I'm sure there's consultation there.

Mr Delcourt: I just wanted you to be aware that we do meet with the minister on a whole variety of issues.

The Chair: Any debate on Mr Colle's motion?

Mr Pouliot: On Mr Colle's motion, Mr Chair, precisely, exactly what Mr Colle is emphasizing: In view of the series of presenters this morning, who were, I took it, unanimous in asking that they be consulted before any further action, or I would say erosion, be taken on the much-necessitated and proven benefits of the halfway house—so only, with respect, chief, in that context, and you, with your inclusivity and that of presenters, and I think it fits into the intent and spirit of Mr Colle's motion—we're saying that yes, in terms of parole, yes, in terms of halfway houses, that people be granted more than the pleasure of an audience, that that be an ongoing dialogue with the minister responsible.

Mr Skarica: I just wanted to say that it seems to me redundant, as the minister's meeting in any event, according to the testimony we've just heard.

Mr Colle: Not on this issue.

Mr Skarica: Which issue is this?

Mr Colle: Parole and the effectiveness of it and the halfway house closure and the effect it has on cost efficiencies in the system.

Mr Skarica: All right, on that issue, but basically you indicate there's an open relationship with the minister?

Mr Delcourt: Yes, there is.

Mr Agostino: We're just reinforcing it. We want more consultation.

The Chair: All right, then, if there's no further debate, those in favour of the motion? Those opposed? The motion fails.

Interjections.

The Chair: Chief, thank you very much for your time and your patience.

Ms Martel: I have three requests for information from research, please, with respect to what we heard this morning. Firstly, I'd like to have some information regarding whether or not the \$80,000 figure that we've heard this morning per inmate is a figure which also includes capital costs around incarceration. Secondly, I would like to get some information regarding the level of incarceration rates versus the level of conditional release mechanisms that are currently being used since this government came to power. Thirdly, I want to know if and where the savings from the closure of the halfway houses have been reinvested back into the correctional programs in this province.

The Chair: If there's no further business, then we stand adjourned until 9:30 tomorrow morning.

The committee adjourned at 1301.

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Cleary, John C. (Cornwall L) for Mr Crozier

Stewart, Gary R. (Peterborough PC) for Mr Fox

Ross, Lillian (Hamilton West / -Ouest PC) for Mr Gilchrist

Clerk / Greffier: Decker, Todd

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CONTENTS

Wednesday 28 February 1996

1995 annual report, Provincial Auditor: Ontario Board of Parole	P-128
Ontario Halfway House Association	P-128
Thomas Allgoewer, president	
St Leonard's Society of Canada	P-133
Elizabeth White, executive director	
Operation Springboard	P-133
Margaret Stanowski, executive director	
St Leonard's Society of London	P-133
Peter Aharan, executive director	
Ontario Association of Community Correctional Residences	P-133
Arthur Stratton, representative	
Elizabeth Fry Society of Toronto	P-141
Claire Price, president, board of directors	
Ontario Association of Chiefs of Police	P-145
Jack Delcourt, chair, legislation committee	

CAZON
XC21
- P72



P-10

P-10

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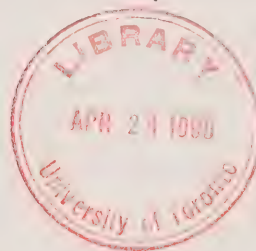
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**Standing committee on
public accounts**

1995 Annual Report,
Provincial Auditor

**Comité permanent des
comptes publics**

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 29 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 29 février 1996

*The committee met at 0933 in committee room 2.*1995 ANNUAL REPORT, PROVINCIAL AUDITOR
RETAIL SALES TAX

ONTARIO RESTAURANT ASSOCIATION

The Chair (Mr Dalton McGuinty): Good morning, ladies and gentlemen. Welcome to the standing committee on public accounts. Committee members will have had a copy of today's agenda before them. You'll notice that we'll be doing a bit of jumping back and forth in terms of the subject matter we'll be covering, but we're to begin this morning with a presentation from the Ontario Restaurant Association. Welcome to the committee. Please keep in mind that you've been allowed a half-hour for your presentation and committee members would appreciate that you'd allow some time for questions. Please begin by stating your names for the record.

Ms Rachelle Wood: Good morning. The Ontario Restaurant Association welcomes the opportunity to appear before you to discuss Ontario's retail sales tax system. I am Rachelle Wood, director of public affairs for the association, and I am joined by Paul Oliver, president of the association. As an industry which generates over \$2.2 billion in taxes for the government of Ontario and the government of Canada, we are extremely interested in the tax collection, tax assessment and tax avoidance practices.

The ORA believes that tax avoidance concerning the PST is a growing and serious problem, but the solution to this situation cannot be developed in isolation. The cumulative tax impact as well as the application of specialized taxes play a major role in tax evasion, the growth of the underground economy and, ultimately, PST avoidance. Any solution developed by this committee must incorporate a comprehensive approach to combating the black market and should not focus only on reducing PST avoidance. In fact, singular approaches could have the unintended consequence of not only adding to PST avoidance, but also enhancing other tax avoidance.

During today's presentation, we will focus on a number of key issues pertaining to tax avoidance and potential solutions to address this problem.

The high level of taxes paid by consumers and businesses has led to the creation of black markets in items such as beverage alcohol, as the smuggled tax-free products are significantly less expensive than when purchased through legal channels. The differences are primarily not in the base price but in the tax component. The value savings created by black market products are

enhanced by PST and GST avoidance. The underground economy that has been created can no longer be ignored.

On a positive note, meaningful government action could substantially reduce or eliminate black markets that currently exist. These increased government revenues will also go a long way to assist the government in managing its debt load, achieving its fiscal objectives and preserving existing services. However, the approach to controlling tax avoidance cannot be limited to only the PST, but must include a meaningful evaluation of all taxes and a broader policy approach.

The ORA believes that the frustration experienced by consumers and business over the high taxes that they are required to pay on purchased goods has led to a general belief that the avoidance of the payment of taxes is justifiable and acceptable. One only need look at the market that existed for illegal cigarettes to realize consumers had no difficulty, both psychologically and in terms of accessibility, in purchasing this illegal product solely to avoid the payment of high taxes.

In terms of the business community, the underground economy is in many cases a welcome relief to the costly administrative burdens associated with tax collection and compliance. For both the general public and the business community, there is a strong perception that government is constantly either increasing existing taxes or introducing new taxes, with no end in sight.

I'd next like to talk about PST-GST harmonization, an issue that we believe would encourage further PST avoidance. There has been significant public discussion about the possibility of the province of Ontario harmonizing the provincial retail sales tax with the federal goods and services tax. Some individuals have suggested PST-GST harmonization will reduce PST avoidance. The ORA believes that the negative impact harmonization will have on consumer spending and consumer confidence will actually enhance PST avoidance.

Economic analysis suggests that in order for harmonization to be revenue-neutral for both the federal and provincial treasuries, the combined GST-PST rate would need to be 15%. This 15% combined rate would also have to be expanded to cover a wide range of services and products including previously PST-exempt items such as books, postage stamps, haircuts, home heating fuel and many other services. This would result in a net increase in consumer taxes of approximately \$2.5 billion. The ORA believes that the psychological impact of adding \$2.5 billion in additional direct consumer taxes will have a profound impact on tax avoidance, the same way the introduction of the GST substantially increased tax avoidance and provided consumers with the psychological rationale for general tax avoidance.

Harmonization will also lead to increased black markets for goods as consumers strive to avoid payment of further taxes. Harmonization will only further exacerbate sales tax evasion. Government must be cognizant of the fact that the public no longer wishes to pay high taxes and is opposed to any direct new taxes that would be created through an initiative such as GST-PST harmonization.

There also appears to be strong public opposition to harmonization. A September 1995 public opinion survey by Environics Research found 55% of Ontarians were opposed to harmonization. This confirms the potential psychological impact harmonization will have on the propensity for avoidance.

We believe the government of Ontario should oppose GST-PST harmonization because of its detrimental impact on consumers and instead encourage the federal Liberal government to fulfil its campaign promise to eliminate the GST. This in itself will go a long way in reducing PST and general tax avoidance. I'll now turn the floor over to Paul.

Mr Paul Oliver: The application of audits within the foodservice industry generally appears to be designed to determine if all PST has been collected and remitted to the provincial government. The ORA supports efforts by the Ministry of Finance to ensure all merchants remit the appropriate and accurate amount of PST due. However, the association is concerned that while this process focuses on the collection of PST, it has the potential to create an unintended impact on the prevalence of illegal alcohol and creates a systemic perception that the PST collection audit process is not being applied fairly within the hospitality industry.

The concerns of the ORA focus on the collection of PST due on beverage alcohol sold in licensed establishments. It is our understanding that the Ministry of Finance audit process is based on an input-output model which uses generalized industry statistics. The model amounts to taking the total input of beverage alcohol purchased from the LCBO and Brewers Retail, applying the establishment standard markup, allowing a 5% spillage factor and multiplying by the 10% PST, equaling total PST due and payable.

0940

Unfortunately, this model contains two major deficiencies. First, the spillage or damaged product ratio of 5% is not applicable for all types of hospitality establishments. The 5% factor covers all types of product loss, including stolen product, free product, damaged product and overpour product, including both draft beer overpour and free pour of spirits that may not be measured exactly to one ounce. For many establishments, the 5% factor is neither appropriate nor realistic. This creates a system where operators are being assessed PST due for transactions and sales which have never transpired. This creates a systemic view by many foodservice operators that the PST collection system is simply not fair.

To respond to this unfair audit process and to ensure that actual sales take place to cover spillage and damage levels above 5%, some operators are forced to supplement legitimate beverage alcohol purchases with black market beverage alcohol. Without this supplement of illegal

products, operators would be required to remit PST collected on sales which have never taken place. Recognizing the lack of profitability within the foodservice industry, the only opportunity for some operators to create the PST payable, where it really does not exist, is to sell underground, illegal alcohol. The ORA does not support this, but it is a reality.

The ORA does not believe that it was the intention of the government to administer a PST audit process which unfairly assesses merchants for PST on sales which have never taken place, nor is it the government's goal to support an audit process which forces operators to supplement legal beverage alcohol sales with illegal ones. Therefore, the ORA would urge this committee to recommend that the Ministry of Finance undertake a review of the hospitality industry audit process and, in cooperation with the association, develop a more appropriate audit factoring rating system.

Relative to general contraband alcohol in Ontario, much has been said recently about the growing level of beverage alcohol smuggling. With a 750-millilitre bottle of spirits taxed at 83%, wine at 63% and a case of beer at 49%, it's hardly unexpected that a black market would develop. As a result of high taxes, liquor smuggling, especially spirits, has become a \$1-billion industry and is representing substantial lost revenue for the government of Ontario and the federal government. In Ontario, some estimates suggest as much as 28.6% of spirits are sold illegally and that with this a significant amount of PST is avoided. It is estimated that Ontario loses more than \$290 million in taxes annually to smuggled alcohol.

The ORA would urge the government of Ontario to reduce the level of taxes paid on beverage alcohol in order to make Ontario more competitive and reduce and hopefully eliminate the enormous black market which currently exists for contraband alcohol.

Over the last few years there has been a growing prevalence of illegal alcohol in Ontario's licensed establishments. A number of factors contribute to this phenomenon. In addition to wishing to avoid the PST, the use of smuggled alcohol by licensed establishments occurs in Ontario due to a need to remain competitive by offering lower prices, to avoid the special and discriminatory hospitality gallonage tax, to compete with competitors using illegal product or operating in a lower-tax jurisdiction, and in some cases simply to survive. These may appear to be small factors; however, they enhance the psychological justification of illegal products.

Further deciding factors for licensed establishments to purchase contraband liquor are that liquor smugglers simply provide better service than does the LCBO monopoly. They allow licensees to purchase on credit and with competitive credit terms and provide delivery. While the general public is able to purchase alcohol from the LCBO on credit, licensees are required to pay cash in advance. Operators do not believe that there is any justification for this unfair and discriminatory treatment that they are receiving from the LCBO.

With the downturn in the economy over the past several years, hospitality operators are finding themselves strapped for cash necessary to purchase beverage alcohol. Smugglers of contraband liquor, by not charging the

licensee the 12% gallonage tax or any other taxes and by offering credit, are an alternative which many operators are forced to turn to.

The ORA has repeatedly requested that licensees be able to purchase alcohol on credit or be allowed to use personal credit cards like everyone else in Ontario. This is something that the government could implement practically overnight and would show to the hospitality industry that the government is committed to bringing fairness to Ontario's alcohol distribution system and eliminating the black market for beverage alcohol.

While the taxation of beverage alcohol is very high in Ontario and is a major cause of illegal products, the taxation of beverage alcohol in licensed establishments is even greater. Foodservice and hospitality operators are required to pay a special 12% gallonage tax on the purchase of that alcohol, which customers of the LCBO retail stores do not pay when purchasing the identical product. Combined with the cumulative impact of an additional 10% retail sales tax upon resale, foodservice customers are required to pay approximately 50% higher taxes for their adult beverages when purchased in a restaurant than if the identical product was purchased for home consumption.

The perceived inequity in the tax system provides for a strong rationale for tax avoidance and the creation of the black market. Much of the tax system is based upon the perception that it's fair and equitable, but just to give you an example as to what the perception is for the hospitality industry—I've brought props—this is a bottle of wine. If this bottle of wine were hypothetically sold at the LCBO for \$6.35 to the retail customer, the government of Ontario would collect about \$3.41 from that. If this bottle of wine, an identical bottle, were sold in an LCBO agency store for the same price, the government would collect \$2.72, even though it's the same product. If this same product were sold in an Ontario wine store, the government would collect \$1.07—same product, same tax. If this identical product were sold in a restaurant, the government would collect \$4.21—same product, identical product. Why is there this major difference? It's because of the LCBO markups, the discount system and the special gallonage taxes applied to the hospitality industry. For an operator sitting there saying, "I'm already remitting \$4 in tax, and I know that when that same product is being sold to my customer at a wine store, only \$1.07 is going to the government," the justification that the system isn't fair hits home very quickly and very hard.

To ensure the viability of the hospitality industry and other related sectors, such as the tourism industry, there is a need to change the existing tax arrangements on that beverage alcohol in the interests of fairness for operators of licensed establishments and our consumers. Even with the elimination of the special restaurant and bar gallonage tax, customers would continue to pay more tax when purchasing in a hospitality establishment than when purchasing the identical product in the LCBO, an agency store or a wine store. However, the elimination of the special hospitality tax is an appropriate first step towards tax equity.

The ORA strongly urges the government of Ontario to eliminate the double taxation on beverage alcohol sold in

licensed establishments by eliminating the 12% restaurant and bar gallonage tax and reducing the special 10% alcohol sales tax to the standard 8%.

Ms Wood: The final issue we would like to discuss is recapturing the black market through video lottery terminals. Much of the focus of public policymakers pertaining to the black market has rested on ways to reduce the underground economy. The ORA would encourage this committee to also consider mechanisms which will help bring black or grey money back into the structured and regulated economy.

One mechanism which warrants more exploration is the introduction of video lottery terminals. The food and beverage industry has been encouraging the government of Ontario to authorize the introduction of VLTs in liquor-licensed establishments throughout Ontario as a means to provide an economic stimulant to the hospitality sector and create new financial revenue for the province.

Currently, VLTs operate in eight other provinces. It is estimated that the introduction of VLTs would generate net revenue for the government of Ontario of approximately \$700 million to \$1 billion in non-tax new revenue. Current estimates are that there are now approximately 20,000 illegal machines operating in Ontario, machines from which the government and its taxpayers receive no benefit. By allowing VLTs into licensed establishments, the government will be able to substantially enhance job creation; help stabilize the licensee sector of the hospitality industry; reverse the outflow of Ontario residents to competing jurisdictions, such as Quebec and Manitoba, which have VLTs; and begin to address the massive black market which has already developed for VLTs.

The introduction of VLTs into LLBO-licensed establishments will also provide the hospitality industry with some degree of economic stability, as well as a level competitive playing field in border regions which already have or are in the process of introducing VLTs. This initially would reduce the propensity to engage in tax avoidance.

In conclusion, we thank you for providing us with an opportunity to appear here today.

0950

Mr R. Gary Stewart (Peterborough): Thank you for your presentation. I look at your lineup of four bottles of wine and the variance in taxes etc. Do you think that privatization of the liquor industry will help to offset that, if there were some rules and standards put into effect?

Mr Oliver: A two-point answer: In Alberta they did get a levelling of this because they introduced a flat-tax system. There's still a higher tax because of the GST application in Alberta, but it was a levelling of it in Alberta and a competitive market. For example, we're not allowed to even buy wine from an Ontario wine store. But in Alberta, you can buy from any store. You can buy it from the government warehouse. You can buy it from any of the private stores. You negotiate your own price for the hospitality industry. So they did get wholesale pricing and they also got an elimination of special taxes so that they had a flat markup, the same as any other operator. Does it require privatization to accomplish that? No. If the government wants to address this without privatizing, it can be addressed in a public or private system.

Mr Stewart: I ended up getting a couple of other presentations from the restaurant industry, and most operators use an upper-level quality of liquor in their establishments. They found, again because of the type of privatization, that the middle class or the middle pricing went down, which had an added benefit for the food industry. Do you concur with that as well?

Mr Oliver: Yes. We're actually just running those numbers for Ontario. We've requested, under freedom of information, from the LCBO the listing of the top brands or top skews so that we can actually come up with those numbers. But generally, in Alberta, they found that the prices of their standard brands didn't go either upwards or downwards, but their upper premium products, which are showcased in a lot of restaurants, did come down in price.

But more importantly, what they did was they got the price that it goes into the system at, not what it comes out of the system at. So they're buying at what it goes into the liquor store at, the back-door price, not at the front-door retail price. We pay full retail for our product when we buy it in Ontario and then we have special gallonage tax applied. Whereas in Alberta, they're buying at the same price as the operator of our liquor stores.

Mr Stewart: On the smuggling across the border of contraband liquor and cigarettes and so on, how do you see us trying to control that?

Mr Oliver: I think the only way you're going to be able to control that is through adjustments in the tax. I just don't think you have enough police or customs inspectors to control it; it's the same problem you had with contraband tobacco. You accomplished that by adjusting the taxes so that people believe they're fair.

Mr Mike Colle (Oakwood): In terms of the illegal sale of alcohol, whether it be smuggled or otherwise, that the mainstream restaurants are selling and being taxed on, is there any type of analysis of the illegal sale of alcohol through booze cans, the underground restaurants that operate after hours, and any kind of analysis of what percentage of that is alcohol bought from LCBO or smuggled, or whatever?

Mr Oliver: We would estimate probably somewhere around 80% to 85% in a booze can that's operating illegally is illegal product, because if you go into the LCBO and you're buying huge volumes of liquor, someone's going to say, "Why are you buying huge volumes of liquor?" "Well, I'm operating an after-hours club." They're going to be at your front door the next day. So you have to buy illegal product, because if you don't, they have a means of identifying where you are.

The only time where it's actually bought through the LCBO would be if you're operating that establishment under an SOP, a special occasion permit, where you can justify going in and buying dozens of cases of liquor. But if you're not operating under an SOP, and most booze cans don't operate under an SOP because if you operate under an SOP, then the inspector has the right to go into your establishment; if you don't have an SOP and you don't have a liquor licence, the liquor inspector can't go into your establishment, or won't go into your establishment. So if you just completely operate outside of the system, you have no regulatory side. Then, on the

purchase side, you just buy it from the smuggler who drops by and delivers on Friday afternoon and will refill on Saturday. So even if you get raided, you don't have the product seized.

Mr Colle: In fact, I've heard that there are regular routes that these smugglers have throughout the city, that they have their dropoff points. It's a growing business in terms of all the ancillary aspects to it, like delivery.

In terms of beer, it's been my experience that there's been no control out of the Beer Store, that we've had booze cans where people were shot and the place was raided a couple of days before, and the proprietor of the booze can will be at the Beer Store the next day buying 40 cases of beer and there are no questions asked. Have you heard of any controls through the Brewers Retail in terms of control of this type of thing?

Mr Oliver: None whatsoever. The only one is a sharp employee saying: "Why are you buying 40 cases for home consumption? Either you have a very big drinking problem or a very big family or something else is going on." At the LCBO, they seem to be a bit better at identifying those. At the BRI, there's no incentive, because you're paying money to walk in and buy the product. Why would I question you? Just make sure you have the truck not blocking our back door for too long when you're loading it up. But a lot of the product that flows into those booze cans is completely illegal, and in that way it's not tracked. If you go and you buy through either the BRI or the LCBO, there's at least some paperwork there to trace that purchase. If you're operating an illegal operation, you don't want any paperwork, any trace of it.

Mr Colle: Just in terms of the consumption of other alcoholic beverages, beer and the taxation rate on beer—

Mr Oliver: The smuggling of beer seems to be far lower than the smuggling of distilled spirits, and wine is even below distilled spirits, partly because the taxation level on beer is only about 48% or 47%, and it's a larger commodity. The per inch or per square foot of smuggled product that you're moving, you just don't get as big a return, whereas a case of 40-ouncers, you get a far bigger return. Generally, what we're seeing on wines is not so much smuggled product; some smuggling, but also people making it and using it in private events and things like that. There's a lot of that goes on. Distilled spirits seems to be the overwhelming area because the return per bottle is so great. You can make \$8, \$10, \$12 a bottle in profit for a smuggler per bottle, whereas you can only make a few pennies on a bottle of beer.

Mr Gilles Pouliot (Lake Nipigon): I've been a patron, like all. You can't escape your client group. Tell me, on the first bottle that says \$4.21, \$4.21 is the tax portion that is remitted to the Ontario government, right?

Mr Oliver: Yes, and that's based on the standard 2.5 markup in the hospitality industry.

Mr Pouliot: What's the cost of this bottle of wine, sir?

Mr Oliver: When it's resold, \$15 I think, \$14.50.

Mr Pouliot: As a customer, I would pay \$15 for it?

Mr Oliver: Yes, around \$14.50 or \$15.

Mr Pouliot: So \$4.21 would be a markup of, what, 100%?

Mr Oliver: Just over 100%.

Mr Pouliot: So \$4.21 is what's in the bubble here. Obviously you feel that it's excessive.

Mr Oliver: Yes.

Mr Pouliot: Is contraband a direct result of the \$4.21?

Mr Oliver: In some cases, yes; in other cases, it's the result of the psychological impact. As a restaurateur, if I'm sitting there and I have no money to buy liquor at the end of the week and I want to buy something on my credit card, I can't do that even if I wanted to put it on my personal credit card. But I need something to sell Friday night, and someone walks in your front door and says: "We'll deliver to you every Wednesday or every Friday or whenever you want. Pay us in three weeks or four weeks."

For the smuggler (a) they're offering credit, but (b) the smuggler doesn't have to carry cash around. If they're caught, they don't carry the cash with the liquor, they want to separate the transaction, whereas at the LCBO, we have operators who want to pay for it on their personal credit card. There's no risk to the LCBO, there's no potential of revenue loss; they can't do that.

1000

Mr Pouliot: You seem to have taken a certain fervour on the following of the cigarette episode. Following Mr Stewart, who initiated this by mentioning the privatization, hypothetically at this stage but nevertheless maybe a reality in relatively short order, on the one hand, you have mentioned that it would give you the opportunity to strike a deal, if you wish, and yet on the other hand, you would have to factor the ability of the LCBO to go to the brokers, to go to the wineries, and exercise the pressure of volume. In other words, if I'm a private entrepreneur and I go and buy 100 bottles of Chateau Bonnet, and if LCBO goes and buys \$500,000 of Chateau Bonnet, the rest is semantics, we know what happens. So you reach an equilibrium, a balance here. What you gain on the one hand by privatization, you might lose on the other because you don't have the same force of bargaining.

Mr Oliver: We hear a lot about the LCBO's purchasing power, but that purchasing power doesn't seem to hold up across Canada, purchasing power that other jurisdictions have, because a lot of other jurisdictions simply put in a rule that you have to offer the best price that you offer anyone in Canada. The liquor board in PEI or Newfoundland gets a similar price as in Ontario because they're saying, "What is your best price? Match it or we don't list your product."

What you also do is you bring more products into the marketplace. The last numbers I saw, the LCBO has reduced its number of standard brands from 2,800 to 2,300 since 1990. I believe now that the official number from Alberta is somewhere around 6,500 products that they have available, and within a six-month period of time it will be 12,000 products. There's more competition in the marketplace, so the manufacturers are more competitive in listing the price. There's no incentive for someone that isn't listed on the LCBO to offer a price that's substantially lower, because if they can't get on it, then they can't pay the listing fee, whereas in Alberta they can.

Mr Pouliot: Well, yes, it's a judgement. You would know better. You have to turn the stock. The Remy Martin, Louis XIII, is not something that you would want to stock your shelves with.

In some parts of Montreal, you have what they call the frais de manutention, it's a handling fee, and you bring your own, and they seem to be able to survive. I guess the food makes a difference. What is the percentage that you estimate where taxes are not remitted to Revenue Ontario, 10%, 15%?

Mr Oliver: It's very hard to arrive at, because you can go out and you can audit, but if you're auditing and coming up with number on sales that didn't exist, it's very difficult.

Mr Pouliot: So on the bottle, \$1.07, that's what I would pay as a consumer?

Mr Oliver: No. You would still pay the wine store \$6.35 for this bottle of wine, but that's all the government generates out of it, so you should pay \$6.35.

Mr Pouliot: So you buy three at \$4.21, you buy one at \$1.07, and if I pay you cash, that's an invitation to sin, is it not?

The Chair: Final response.

Mr Pouliot: Okay.

The Chair: Thank you for your presentation.

ONTARIO BOARD OF PAROLE

CRIMINAL INJURIES COMPENSATION BOARD

The Chair: The next presentation is to be made on behalf of the Criminal Injuries Compensation Board. Good morning, sir, and welcome to the committee. We have allowed a half-hour for your presentation, if you would proceed, and please keep in mind that, if possible, committee members would like to have the opportunity to ask some questions of you.

Mr Chisanga Puta-Chekwe: My name is Chisanga Puta-Chekwe from the Criminal Injuries Compensation Board. I'd like to begin by thanking you for the invitation to appear before the standing committee to express the views of the board with regard to the parole system and to the auditor's comments in his report.

Perhaps a few background remarks will help put my comments in context. The board I represent, the Criminal Injuries Compensation Board, is part of the criminal justice system. We are not an advocacy group. Although most of our involvement is with victims of violent crime, we are a quasi-judicial tribunal and our job is to make decisions.

Our legislation, the Compensation for Victims of Crime Act, gives the board one function and responsibility. We have to make decisions on whether or not we will exercise our statutory discretion to award compensation to victims of violent crime who have applied to our board. We are not there to compensate victims of all crime. We do not compensate for losses from theft, for example. We are asked to decide whether victims of violent crime, who have been injured, ought to be compensated and in what amount. Where the victim was murdered we may contribute towards funeral expenses incurred by the victim's survivor or survivors.

After victims of crime have gone through the trauma of the incident in which they were injured, and have gone through all the court procedures—in which, by the way, they rapidly discover that they aren't the focus of atten-

tion—they come to us. They come to us with the fear and concern they have about the person who caused them violent harm and hurt them. If that person was found, and charged and convicted, he or she may be in prison or may be on parole.

I'd like to emphasize once again that we are not an advocacy group for victims of crime or for anyone else. Our job, on behalf of the people of Ontario, is to examine applications for compensation and award compensation where this can be justified under the Compensation for Victims of Crime Act. Where the offender has been convicted, our legislation tells us to take that conviction as conclusive evidence that the crime was committed, thereby making the victim compensable, subject to other statutory considerations being met.

Even in the absence of a conviction, however, our legislation still empowers the board to find a person to have been a victim of a violent crime. There are many good reasons for this power. For example, a crown attorney may have decided that a child victim of sexual abuse was too young or too fragile to testify in court. Again, it may be perfectly clear that a victim was injured as a result of the commission of a crime of violence, but there may be problems over positive identification of the assailant. Again, a case may have been dismissed because a witness failed to appear. For all these reasons, we can make a finding on a balance of probability that the crime was committed, the absence of a conviction notwithstanding.

Offenders or alleged offenders are parties to our proceedings and the board as a quasi-judicial tribunal must at all times remain impartial and fair. We use our discretion to award compensation where appropriate, always bearing in mind the principles of natural justice. That means we must treat like cases alike.

Apart from the fact that they are parties to our proceedings, the board has a particular interest in offenders and alleged offenders. Our legislation gives us powers of subrogation. Once the board has made the decision to award compensation, we are subrogated to the rights of the person awarded and may seek to be reimbursed from the offender or the alleged offender. I will have more to say about this shortly.

The Criminal Injuries Compensation Board is very appreciative of the recent passage by the Legislature of the Victims' Bill of Rights, 1995. We welcome the positive statement this piece of legislation makes about victims' rights. We also are appreciative of the maintenance of the victims' justice fund account.

I would now like to share with you some thoughts with respect to the Provincial Auditor's comments and recommendations about restitution in the 1995 Annual Report. The report states at page 252: "Restitution orders are intended to provide victims with compensation; non-payment situations undermine the intention of the court and may make victims feel victimized again." It is not my place nor my responsibility to comment on the processes by which restitution orders are made. However, I would like to emphasize that when restitution orders are made but not enforced, and the victim is thus forced to seek compensation from our board, it is the taxpayer of the province who pays for the consequences of the crime on the victim, and not the criminal.

1010

I therefore welcome the recommendation that, "The ministry should seek direction from the court when offenders do not meet restitution order requirements; and work with the courts to ensure that offenders' abilities to pay are assessed before restitution orders are imposed."

Of course, we are all aware that a great number of criminals are judgement-proof. I mentioned a few moments ago our powers of subrogation. In our efforts to recover money from criminals, we've been quite familiar with the judgement-proof status of most offenders.

I would also add that it is not the most profitable use of public funds to pursue in the courts subrogation claims unless the amount hoped to be recovered is substantial and there is a reasonable guarantee that the pursuit will be effective. This consideration makes it all the more desirable that when restitution orders have been made by the courts, they be enforced.

The growth in the number of applications to the board, particularly from victims of sexual abuse, has been continual. The amount of public money available to meet these as we realize other needs remains limited. Our board, when deciding whether or not to award compensation and in what amount, must take into consideration any compensation obtained by the victim of crime from other sources. That, of course, includes restitution orders, but it is not fair to the victim to take this payment into consideration unless the restitution has actually been paid or been made. In that way, the effectiveness of the enforcement of restitution orders directly affects the operation of our board.

I would also like to point out that any restitution obtained from a criminal potentially frees money for this board to award to another victim of crime whose assailant was never found, convicted, or who is judgement-proof.

The current discussion on cost-effective ways of dealing with anti-social behaviour is re-emphasizing the value of restitution. The search for effective alternatives to costly incarceration has led to a reconsideration of the value of restitution. The responsibility to make restitution encourages the offender to appreciate at a personal level, not at an abstract level but at a personal level, the harm done to the victim.

Younger offenders and those not yet hardened to the operations of the justice system and multiple incarcerations may respond to the financial consequences of the damage caused. The victims, on the other hand, have a sense of getting something back, a sense that something is being done to restore order to their lives.

As the report indicates, one third of offenders ordered to pay restitution do not have the ability to do so. The victims of these offenders must look elsewhere for compensation. I reiterate that our experience shows that generally, offenders are judgement-proof. In light of this, these offenders' victims have nowhere else to go but the Criminal Injuries Compensation Board for compensation. Even the victims of those offenders who do pay restitution often have to come to us because the money they receive from the offenders or the assailant is insufficient.

It is clear, therefore, that repeat offenders and offenders returned to society prematurely because of the problems and deficiencies to which the auditor has drawn his attention, represent a cost to society.

Of course, many of the offenders who have caused injuries leading to applications before the board have been sentenced to terms considerably longer than two years less a day and do not therefore fall under the jurisdiction of the Ontario Board of Parole. However, through plea bargaining, concurrent sentencing and other means of keeping the wheels of the justice system operating, there are criminals who have created very serious harm but who have received relatively light sentences and who therefore fall under the jurisdiction of the Ontario Board of Parole.

As the auditor notes, the Board of Parole needs to improve the quality of its parole decision-making process by obtaining sufficient information, assessing risk more objectively, providing better training for board members and taking corrective action when necessary. The board also needs to develop measures to assess and report on its effectiveness in protecting public safety and assisting the reintegration of offenders in the community.

The premature release of some of these offenders because of inadequate attention to the opinions of the court, the police, their therapists and counsellors does have serious consequences. We know this because we see the direct consequences through applications received from their victims.

Let me give you one example of an actual case. In January 1995, a victim was walking home from the Eglinton subway station in Toronto when she became aware of a man following her. She walked into her apartment lobby with the man right behind her, got into the elevator and pushed the button for her floor. When the elevator reached the victim's floor and the victim tried to get off, she was grabbed from behind by the man, who also placed his arm around her throat. According to the judge who heard the matter, the offender attacked the victim in a manner which involved the gratification of sexual desires, and which attack was such that it caused her bodily harm beyond a mere touch or bruise. Things would have been much worse had some tenants who heard the victim scream not rushed from their suites and pulled the attacker off the woman. The offender was convicted.

At the time of this offence the offender was on parole, having been earlier convicted of choking a woman in an elevator. The victim came to the board and was awarded \$5,000 for pain and suffering. Provision was also made in her award for an additional \$5,000 to cover the cost of therapy. Clearly the victim in this example I have given would not have been injured had the offender not been released prematurely from prison, and society would not have had to compensate her.

The board recognizes, of course, that there are instances when early release from incarceration is justified. I would suggest, however, that there could be no justification for early release without a convincing case being made that the offender's release would not in any way be prejudicial to public safety. Accordingly, I welcome the auditor's recommendation that the Ontario Board of Parole should institute the use of objective risk assessment tools to help members assess and support their judgement on the risks of releasing offenders.

In addition to monetary loss, the lower capacity of victims of crime to function normally represents another

cost. This is a cost that is preventable. It is the pain and hurt, the fear and dread which presently secure, productive and optimistic members of society will feel because of the crimes of offenders. This feeling of insecurity undermines society's ability to perform to its fullest potential. In addition, perpetrators of crime place permanent as well as temporary demands upon the resources of the province as their victims turn to society for help.

For example, because of the demands placed on the Criminal Injuries Compensation Board to finance counselling and other therapies, we have had to limit our contribution to these costs to \$5,000 except for very special circumstances. I would remind you that victims of sexual assault and child abuse make up the largest single category of our caseload. In the last report in the fiscal year, they made up about 42.2% of the entire caseload. The vast majority of these victims require counselling.

In closing, I would like to reiterate that there is a cost to society, both monetary and non-monetary, involved in early release of offenders. At the same time, I recognize that some useful purpose can be served by parole as long as the persons charged with assessing suitability of offenders for parole satisfy themselves on an objective standard and without reservation that early release is not inconsistent with society's security concerns. In this regard, I am encouraged by the auditor's report and recommendations contained therein.

Mr Dominic Agostino (Hamilton East): I want to address to you, sir, the question of the suitability of the awards and the limits that are on the awards that the Criminal Injuries Compensation Board often is limited to. In the system itself you mentioned the maximum of \$5,000. That would be in most of your cases.

Mr Puta-Chekwe: No, that would be a maximum for counselling costs only.

1020

Mr Agostino: But that doesn't give you the long term of someone who has been severely psychologically scarred as a result of an attack or a criminal act. Obviously it would often require long-term counselling that the \$5,000 won't even touch. In the whole system itself, in your view, is the compensation that is given to victims adequate, and would you like to see an option or a system whereby your board has more flexibility as to the type of awards and the amount of monetary awards you give?

Mr Puta-Chekwe: The compensation that we give to victims of crime is not, and I don't think can be, adequate. I don't think the legislation ever pretended that it was going to place victims in the position they were in prior to being injured. I think the purpose it serves is to assure victims of crimes of violence that society does care about them and that society recognizes that it has failed them in that it hasn't provided them with sufficient security to avoid this crime being committed against them. That's, I think, as important as and in some cases more important than the money for compensation that the victims receive. So the recognition is an aspect.

In terms of the actual monetary compensation, the maximum amount that the board can award in terms of a lump-sum payment is \$25,000. Now that's awarded under various heads. Expenses incurred: In the case of counsel-

ling you have a policy that limits that to \$5,000 except in exceptional circumstances. That is a reasonable amount to award, given that \$5,000, going by current therapists' charges, will allow the victim to undertake something like 70 sessions of therapy. Most therapists agree that usually two years or less is adequate to address most of the problems these victims have.

But the third point I would like to make is this: The compensation program in Ontario relative to other compensation programs in the country remains quite generous, so I think in some real sense society is doing what it can to help victims of violent crime.

Ms Shelley Martel (Sudbury East): What's your overall budget?

Mr Puta-Chekwe: In global terms we are talking about a figure of around \$18 million.

Ms Martel: Does all of that come from the province, or do you get some money that comes back into the fund through recovery from those who perpetrate crimes?

Mr Puta-Chekwe: The vast majority of that comes from the province, but we do have subrogation rights. We haven't collected very much by way of subrogation. If you get \$100,000 a year, you are doing well. But I think it's going to change for the reason that as sexual assault cases have increased and as we've been successfully notifying offenders, we have noticed that sexual assault seems to transcend economic class. If you are going to get dollars back from perpetrators, that is a category where you are going to get it back. Unfortunately, you cannot really subrogate without notifying offenders, but now that we have been more successful in notifying offenders, we expect that there will be an increase in the amount of money that we are getting from perpetrators, and particularly from perpetrators of sexual abuse.

Ms Martel: Do you spend all your money annually?

Mr Puta-Chekwe: Oh, yes. We have no difficulty in that area.

Ms Martel: Explain to me some of the criteria you would use in awarding money to victims. I was looking on page 2, where you said, "Where the offender has been convicted," that's certainly one, but also that it was "subject to other statutory considerations being met."

Mr Puta-Chekwe: Yes. Where the offender has been convicted in terms of section 11 of the Compensation for Victims of Crime Act, we have conclusive evidence that the crime was committed and therefore we generally have no difficulty in awarding compensation in those circumstances. But second, where there is no conviction, we can make a determination on the balance of probabilities that the crime did occur and there was an injury and make an award in those circumstances.

More important perhaps with respect to your question, where there's evidence that the applicant, ie, the victim, contributed to his or her injury, we'll take this into account. The result of this will be either to deny the application or to reduce the level of compensation. We may also deny or reduce the level of compensation where the applicant has failed to provide reasonable cooperation to the police. Those are the other statutory considerations that I had in mind when I said that.

Ms Martel: I notice that you said that offenders or alleged offenders are often parties to your proceedings,

and I'm just curious as to why, if someone has already been charged and convicted, they would then be a party. Why would there not be an automatic granting of compensation without having those people appear? I would think victims would feel victimized again if they have to go through yet another proceeding, albeit not a formal court proceeding but a quasi-judicial proceeding, and have all that rehearsed.

Mr Puta-Chekwe: I think that's a very good question. Certainly I think the case is clear that where there has been a conviction, the alleged offender is entitled to make his or her representations and say, "Look, please don't make a finding on a balance of probabilities, but I am responsible for"—

Ms Martel: I understand that one.

Mr Puta-Chekwe: That's understandable. Where there is a conviction, there are two points I would make. One, it could be argued that the offender is entitled to say, "Yes, I did commit this crime, but I wasn't responsible for the injury." In other words: "I struck him a blow but I could not have been responsible for the injuries to his stomach. I struck him the blow in the face."

The second point is, I personally think, and I think the majority of the board members think, that perhaps we should revisit the legislation and see if it's not more beneficial to society to simply say, "Look, since there is a conviction, since the amount of the award that's provided is entirely discretionary under the statute, since we're not going to determine who did what—that's already been determined for us by the court—why do we need to notify the offender?" I think there is much sympathy for that view on the board. So if we were to participate in a change of legislation, I think you'd find the board promoting that view.

Mr Toni Skarica (Wentworth North): You've indicated that you spent about \$18 million this year, and about five years ago I think you were spending a little under \$10 million. If you look at a chart of your spending over the last five years, it looks like a hockey stick on an upward trend. If you superimposed it on the previous government's spending, it would be a virtual perfect fit. What concerns me as well is that I think your budget's going to go up. Isn't that correct? Or your spending is going to go up?

Mr Puta-Chekwe: I don't anticipate an increase in spending, certainly not over the next two fiscal years. I expect it to remain around the \$18-million or \$16-million level. One of the reasons for that is a lot of efficiency measures are being implemented at the board. We are hoping to deliver the same program but in a more efficient fashion. But I don't expect an increase in spending.

Mr Skarica: The reason I anticipate it is because I think you have about triple the number of applications now that you did five years ago. I think there was a dramatic increase in 1992-93?

Mr Puta-Chekwe: Yes.

Mr Skarica: And there's a rather large backlog of applications?

Mr Puta-Chekwe: Yes.

Mr Skarica: One of my concerns is that for subrogation, having prosecuted sexual assault victims, offenders

do transcend all levels of society and there's been virtually no subrogation. Even though you have the right to go after these offenders and they do have assets and income, there's been virtually no pursuit of those people after an order is made. Is that an accurate statement?

Mr Puta-Chekwe: No. Actually, I've been seeing more correspondence dealing with subrogation over the past year than I have done since I have been on the board, first as a member and then as chair. I think what you are going to see is an increase in the amount of money that is recovered that way.

Mr Skarica: I think \$18 million was your budget this year, and you say that less than \$100,000 is what you pursued? Your budget in the mid-1990s was \$16 million, in that area. What was subrogated during those years?

Mr Puta-Chekwe: I don't have the exact figure, but I think it was substantially less than \$100,000. A figure of \$6,000 comes to mind, so it was really quite low in those years. But as I say again, I expect there will be an increase for the reasons I've outlined: one, more sexual assault cases are being pursued.

Mr Skarica: What steps are you taking to pursue your subrogation rights?

Mr Puta-Chekwe: I pointed out in my presentation that it's not really a prudent use of public funds to pursue small claims. What we have done is, whenever an award is below \$5,000, we generally don't pursue that. But in cases where the award is greater than \$5,000 and where there is a likelihood of recovery, we pursue that quite vigorously now.

The Chair: Mr Puta-Chekwe, thank you very much for taking the time to appear before us this morning.

1030

RETAIL SALES TAX

NOEL REBICK

The Chair: The next presentation is by Mr Noel Rebick. Good morning, Mr Rebick. Welcome to the committee.

Mr Noel Rebick: Good morning, ladies and gentlemen. I wish to address the issue of the audit in respect to the retail sales tax and in particular an area that I don't know if it's been discussed yet or not, but any of the information that I've received says it hasn't, and that's an area of companies in financial difficulty and insolvency, the responsibilities of the management and the directors of these companies in respect to the collection of retail sales tax.

As you well know, Ontario, as is the rest of the country, but particularly Ontario, is going through some very difficult times. The situation with free trade has not been as great as everyone thought it was going to be in a lot of sectors, and this has required a total restructuring of business, of people's careers and a whole new adjustment to life, with not that much time to do it in and not all that much capital available to handle it.

I am addressing now the area of small business: the formation of small business, the operation of small business and the transformation of small business into a viable situation. You may have been viable prior to free

trade, but because of the things that free trade brought on stream, the company has to be changed and there has to be substantial capital introduced and so on, and a great deal of risk. Now, this creates jobs and this creates growth, all of which we have to have, and not just necessarily in the service business but in a manufacturing business, and not necessarily just in software or high tech. There can be low-tech development as well.

There is a situation where there is a liability on behalf of the management and directors in respect to the retail sales tax, as there should be. But the question now arises that if everyone does their proper attention to the running of the business and tries to make that business survive and is taking the risks thereto, does one shut down the business because of the retail sales tax? In other words, it's now a choice: Do you make payroll or do you pay the retail sales tax? Do you shut down a plant that has 60 people and put them out of work or do you pay retail sales tax? It's a terrible decision to have to make. It's a serious problem.

There seems to be an attitude now that the directors are liable and the management is liable and automatic assessments are made against them without any recourse because of the fact that the assessment is arbitrary and you have to pay it before you can appeal it, which isn't fair, but in the interim a business that might be reorganized may not be reorganized. Capital which may be brought to bear because people who put in capital want to sit on the board of directors, they may not want to take the risk. Director insurance is very expensive and onerous.

It's quite a dilemma, and there are a lot of businesses that are running into difficulty. How much retail sales tax is being lost because of that? I haven't got the exact figure, but I would imagine that it would be substantial. So I'm here to raise the problem and address some answers to the situation.

To put the directors and the management of a company into a position where they either have to shut the business down or pay the retail sales tax, now, you say, "Well, the retail sales tax is trust funds." But the fact of the matter is, those trust funds are commingled with the money in the business. In other words, it all becomes part of working capital, and there are terms given, because you pay roughly a month later, and the business works on that money. Whether they like it or not, the fact of the matter is the business works on that money, and when it comes to paying the sales tax, you may think money's going to be there, but for one reason or another, money isn't there, and what do you do? You shut the business down. I mean, if it's trust funds, if the attitude of the province is that you're liable for it, then you've got to shut the business down. All the people go out of work and that's the end of the story.

I don't think it should be that simple. I think there's a lot more to it, because I think we want to have development in Ontario. It's fine to cut everything back to the bone and cut expenses, but eventually you have to get to the point where you have to have some growth and some revenue—some real revenue. I mean, we can all stop eating and get down to skin and bones, but then where do we go from there? The bottom line is we need develop-

ment and we should be creating an atmosphere in the province to get that development.

Now, one of the things this government is doing, rightly so, is trying to create an atmosphere for investment in Ontario. Well, one of the things is that in small and medium-sized business, this is where you get your job creation. Capital comes in with strings, and part of the strings are directorships. People don't want to be directors of small companies because they have tremendous exposure and insurance becomes onerous.

My recommendation would be simply, if indeed these are trust funds, and if indeed a business is the collector, a tax collector, as it says in the act, then those funds should not be commingled. Right from the beginning, no company should commingle those funds with the funds of the business. They should be in a totally separate account and should be dealt with accordingly. And there should be some compensation, because in the act it contemplates compensation paid to the collector. There should be some compensation paid to the individual business.

Now, if one plays around with money in that particular account, it becomes out of a civil realm into a criminal realm and it has to be dealt with. It's like embezzlement. If that's the way we want to treat it, then that's the way we should treat it. Either we're pregnant or we're not pregnant. We can't be half pregnant and put the onerous decision of shutting down a business on the management because some money didn't come in that was supposed to come in or because the company suffered some severe losses that month and didn't have the money. It's a very difficult decision. It's something that I feel is going to become more and more apparent as we move along in this area.

In any event, basically that's what I wanted to bring to the attention of this committee and that's the completion of my presentation. I'd be happy to answer any questions.

Just by the way, I've had a tremendous amount of experience in the business sector. I started in business in 1960 on my own. I've been in a number of different businesses, manufacturing businesses, service businesses, I've been a turnaround consultant. I've had a tremendous amount of experience. I've seen exactly what happens in all these cases and I'd be very happy to answer any questions that you would have.

1040

Mr Pouliot: Good morning, Mr Rebeck, and thank you for a good insight. With respect, if I may, I never thought for one second that government could afford a latitude not to redeem on the coupons. Therefore, governments don't easily yield tax revenue, as you've been able to appreciate through the years.

It's estimated that a 5% reduction in the Ontario sales tax would be an equivalent to the proposed 30%, be it in stages, reduction in the PIT, the provincial income tax. As an entrepreneur, and I take it as a small entrepreneur, medium-sized entrepreneur, if the Ontario sales tax, providing that we would arrive at revenue-neutral, was reduced by 5% in lieu of a proposed reduction of 30% in personal Ontario income tax, which one would you favour?

Mr Rebeck: I would favour the reduction in the retail sales tax, because that would be a positive motivation for

the consumer to say, "Maybe now's the time to make that decision on that purchase that I would want to do and I've been holding back," because the consumer is sitting on the edge, and it takes a little bit of stimulus.

Mr Pouliot: I see. So let's say—and I want to wish everyone well—a rich person, and the mathematics are easy, and I'll catastrophize, but a real story, to illustrate: If a person, as chairperson of one of the major banks, and with bonuses, would make \$2 million a year, that person would pay taxes at the federal level. That person would also pay a rate of 58%, plus they would pay surtaxes, both federal and provincial. But that person can only eat one meal at a time or wear one suit at a time, whereas if the same amount of money was taken and put in the hands, at the disposition, of consumers, the impact on the economy would be a lot more vibrant, a lot more noticeable.

Mr Rebeck: Yes. I agree. I think that it would be a positive sign. It would be recognized. In dollars and cents, it may be the same amount, but the fact is, people can see it right away. They can see something positive. It'll stimulate retailers to promote their products. It'll be seen as a very positive approach, and it certainly will add to the government's perception of trying to not only draw in the purse-strings and cut out the waste but to stimulate some growth in the economy.

Mr Stewart: I can appreciate what you're saying, sir, after being in business myself, because I swear I spent half my working life either paying or collecting taxes.

Some of your comments were most interesting. I think one of the comments you made where you're suggesting that trust accounts be set up and be mandatory, possibly, for business, I believe that's where business gets into trouble. All of a sudden they have a bad month and the tax money goes into the operation.

First of all, how do you feel you can control that? Do you think that can be mandated?

The other one that concerns me is the fact that you want to decide whether you pay tax or pay payroll, and I can again relate to that as well. But I guess the concern I have is, how do you control that? It's very easy for me as a businessperson to say: "Hey, I got a problem this month, so I'm not going to pay any tax," and I can maybe have the same problem next month. I'm not going to pay any tax. How do we control it? Do we somehow work it that it's deferred and paid over the next number of months or whatever? Because what bothers me is that it could be used and abused.

Mr Rebeck: Well, it's used and abused right now, and it's in a grey area and it isn't crystal clear. Management and directors are always optimistic. If they're going to continue the business, there's always a plan that they have on the table, new funds that they're out trying to raise. The indications are that those funds will come in and everything will be wonderful. It doesn't happen. Bingo. We have a major problem. We have an insolvency, a bankruptcy, a reorganization, whatever. It's a serious problem, because it's a grey area.

What I'm saying is, if indeed we don't want to be a financier—Ontario doesn't want to become a banker or a financier or a risk-taker in a small and medium-sized business to help the growth of the province—because it

doesn't have the wherewithal to do that or doesn't wish to do that, then let it be a tax, let it be set up in a separate account. Let it be a criminal offence and in the act, it's there. I mean, it's a criminal offence to mishandle a trust fund, same way as a lawyer. You don't let a lawyer commingle his clients' funds with his own because they run into problems.

Mr E.J. Douglas Rollins (Quinte): It has happened.

Mr Rebick: It has happened, of course, but it's dealt with.

Mr Rollins: Bad lawyers.

Mr Stewart: Do you think, though, that will control it well enough strictly by mandating that they have to put it in a trust fund? Do you think that will solve the problem?

Mr Rebick: I think it makes it very clear that if you mishandle that money, you're in serious trouble, number one. Number two, give them a fee. In other words, say: "Fine. For collecting these taxes"—it's like privatizing the taxes—"you will receive a fee." Again, in the existing act it contemplates I think up to 4%. I'm not suggesting that you give them 4%, but something is given every month to the tax collector, because that's what he is. He's collecting funds that aren't his on behalf of the government and he can't touch them, but he gets paid for doing this, so he's compensated. Then it becomes crystal clear that if anyone mishandles these funds, it'll be dealt with with severity, and you're dealing out of the realm of a civil action into the realm of a criminal action. I'll tell you something. It'll make everybody think twice before they do anything like that and it'll cut down a lot of the problems and it'll polarize the real problem of the people who are trying to take advantage of the system and misuse the system with ill intention, not with good intention.

Mr Colle: Thank you, Mr Rebick, for taking time to come here today, because I think your input is what really makes it possible for us to get a bit of insight into the real world in terms of real hands-on solutions. So it is, I think, appreciated by the whole committee that you've taken this time as a private citizen to be here.

You expressed a concern about the liabilities that might be borne by potential members of a board of directors of a company and how this is a negative in terms of attracting people into boards and so forth. I know the federal Senate has just had some meetings in terms of the roles of boards of directors of corporations and maybe we should be taking a good, hard look at what the roles and functions are.

I know this is an ongoing concern, that when you take on a directorship of a company, the potential downsides to it are starting in many cases to outweigh the benefits that might accrue to an individual. So if you could just restate that concern and express that again for us.

Mr Rebick: First of all, let's look at what management and business wants from its directors. It wants direction. It wants direction in its business. It wants input. It needs directors with acumen who are going to furnish the necessary advice and help to manage that business. I mean, God knows it's so difficult today with the complex economy that we're dealing with and all the different

things that affect it, you need all the help you can get. You need expertise. Therefore, the director should be offering expertise, not covering his ass—excuse me for using that expression—because that's what's happening. If they sit on the board, half of your board meeting's spent on: "Has this been paid? Has this been done? Has this been paid?" I don't know how we can grow the business, how we can make money. I mean, very little time is spent on that.

1050

Then of course all these guys are busy guys and so after an hour and a half of going through all of this, after you go through the minutes to make sure every t is crossed and every i is dotted and after we go through, "Has this been paid and that been paid?" so they have covered their due diligence, no time is spent running the business. That's if you can get a decent director. In most cases, the first thing he asks you is, "Does your company have director liability insurance?" and if you say no, he's not even interested because for a small and medium-sized business, it becomes prohibitive because it's very expensive. The insurance companies make sure that they're well covered and it becomes just intolerable.

We should be able to get people who have acumen and who will participate in directing the business rather than covering their ass and making sure the minutes are properly written so that they can go back again and cover their ass. Therefore, I would take that responsibility off the directors. I wouldn't have the directors liable. I would certainly hold management liable, but I wouldn't hold the directors liable.

Mr Colle: Then when it specifically comes to, let's say, the area of tax collection or paid taxes, and when you've got to turn over any corporate board of directors, is it the fear of a lot of these directors that perhaps there are unpaid taxes and that they may be all of a sudden liable for these unpaid taxes and there's maybe no mechanism to let them know that? As you said, in the rush to go from one meeting to another they may not be aware of the fact there are these liabilities.

Mr Rebick: They are very aware of the liabilities. They survived six months after their resignation. I mean they're very, very conscious of the liabilities. As I say, most of your time is covering their exposure, if any, rather than running the business. Therefore, the role of the director—and after all, what we're trying to do here is create an atmosphere for small and medium-sized business to grow in job creation through the private sector, through entrepreneurship, through enterprise.

Capital is very important, but acumen is as important as capital. A board of directors should be a sounding board for management and your time should be spent on discussing the business and they should be advising management of what their thoughts are and should be an integral part of their business plan. This isn't happening.

I'll give you an example. I won't use a name, but let's say there's a venture capital company that invests in a new enterprise. The new enterprise needs to be nurtured by a knowledgeable director. They don't put a knowledgeable director on the board, they put some kid on the board who has to learn.

Mr Colle: A whiz-kid, yes.

Mr Rebick: He's not even a whiz-kid. It's a training school. You end up training him for something better and you really don't get what you need from your board.

The Chair: Mr Rebick, on behalf of all committee members, thank you for taking the time. You know, we hear at the committee on a regular basis from people who have more direct interests on the outcome of our deliberations and recommendations and we're particularly appreciative of the fact that you, an ordinary citizen so to speak, have taken the time to appear before us.

Mr Rebick: I look at it this way—and I thank you very much—that it's fine for us to be picketing outside and waving flags and putting signs up in the air and going on television and grimacing, but you need to be exposed to the real world with genuine people who will come here and speak freely and honestly to give you the insights in order that you can make the right decisions. I'm happy that I could take my time today and be present. Thank you.

The Chair: Thank you very much.

AUDIT ACT AMENDMENTS

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

The Chair: The final presentation this morning is to be made on behalf of the Office of the Information and Privacy Commissioner. Good morning, Mr Wright.

We have allowed an hour. I'm not sure if we're going to need that much time, but just in case, we thought we'd devote that much time to your presentation, and obviously committee members are going to want an opportunity to ask some questions of you.

Mr Tom Wright: Good morning. I can assure you that the remarks I have to make this morning will leave lots of time for committee members to ask any questions that you may have.

Just by way of introduction, then, my name is Tom Wright. I am Information and Privacy Commissioner for the province of Ontario. With me this morning is Ann Cavoukian. Ann is the assistant commissioner and her primary responsibilities relate to privacy. That's why I've asked her to join me this morning.

My hope in my remarks this morning is simply to share a few of my thoughts on privacy and personal information as it relates to possible amendments to the Audit Act. I'd like to thank Mr Decker, the clerk, for providing me with the Hansard for your meetings on February 1 and 2. I had a chance to go through those and get a sense I think of the kinds of issues that you may be interested in hearing about as it relates to those amendments and concerns for personal information and the privacy protection of that information.

I'd also like to indicate that there have been discussions between my office and Mr Peters's office regarding the implications or possible implications for privacy of the suggested amendments. We've offered our assistance to the Provincial Auditor, and I would do so in a similar fashion to this committee in reviewing amendments to the act once they are developed by legislative counsel.

I thought, before I began my remarks, it might be helpful for those members of the committee who are not

familiar with the Office of the Information and Privacy Commissioner to give you a bit of an understanding of my role as I appear before you this morning.

Like the Provincial Auditor, I am an independent officer of the Legislative Assembly, and among my statutory duties as commissioner is the responsibility to comment on the privacy implications of proposed legislation or government programs. I was pleased to read in Hansard that Mr Peters had suggested that hearing a privacy perspective might be helpful for this committee as you consider the possible implications of the amendments.

I also saw in looking at what had been said at the committee earlier this month that there was a recurring discussion of the need for both public accountability and the protection of personal information, themes which are the basis of Ontario's access and privacy legislation.

The discussions also seemed to indicate that the goal of the committee is to provide a broader framework of accountability for the entities which now receive transfer payments from the provincial government, that is, the community colleges, universities, hospitals, municipalities and school boards, which I gather are referred to, depending on your preference, either as the CHUMS or MUSH sector. It certainly was a bit of an education in terms of looking through and seeing how these acronyms develop. Again, one of the mechanisms for achieving this accountability would be through amendments to the Audit Act.

From my perspective, that accountability right now is at least partially ensured for community colleges, municipalities and school boards since they are covered by the provisions of the freedom of information and protection of privacy legislation. This doesn't address, of course, the auditor's concerns, accounting concerns relating to transfer payments, but it does make community colleges, municipalities and school boards accountable to the public for their actions.

It's long been my view that this mechanism to enhance public accountability should be extended to hospitals and universities. These are organizations which perform important public functions and, as you have discussed, receive substantial government funding. I believe it is in the public interest to make them more readily accountable. At the same time, and this brings me to the main focus of my remarks this morning, universities and especially hospitals hold sensitive personal information which requires legislated privacy safeguards.

I've commented on a number of occasions on the need to protect the privacy of personal medical information. Medical information, I think we can all agree, is one of the most sensitive kinds of personal information that is available about any one of us, and in my view it is this level of sensitivity that demands a higher standard of care in protecting privacy.

I think individuals expect that when their personal information moves beyond their direct control, specific limitations and controls will be in place to safeguard it. After all—and if I leave you with anything this morning by way of thoughts, I'd like to leave you with this thought—the information in question belongs to the person to whom it relates. Any organization, public or private sector, is merely the custodian of the personal information which an individual has entrusted to it.

1100

I mentioned the expectations, and I believe it would be fair for me to say that if you went to a member of the public and said to them, "Who do you think would be able to look at your hospital records?" for example, I'd be willing to bet—not a large amount, but I'd certainly be willing to bet—that not one person would suggest to you by way of a response that the Provincial Auditor would be looking at their medical information, which is not to say and I'm not here to say this morning that that shouldn't happen, but I just would bring your attention to the fact of what the expectations of the public would be.

When you go into a hospital, I think the expectation you have is that certainly doctors, nurses in some cases, possibly others, would have access to that information because they would need to know what's in those records. When you move beyond that immediate group and look at, for example, the Provincial Auditor, I suspect they simply wouldn't anticipate that the Provincial Auditor would have some need to look at those records. I think that's sort of the first point on the continuum for privacy in this area: Is there a need to look at this kind of information?

Having said that, I think that indicates why I'm very pleased that the Ministry of Health is now developing privacy legislation which is specifically designed to protect health care information. My office is working with the ministry as it begins this process, and I do have high hopes that the legislation that will be developed meets the mutual goals of protecting privacy and assisting in the efficient operation of Ontario's health care system.

I think that's the other point I would make this morning, that when we talk privacy, we talk balance. I don't come before you this morning and suggest that privacy is paramount to every other interest. That's simply not the case. But what I do think is that there is room for balance so that you do have an opportunity to meet the needs for administrative efficiencies as well as the concerns that people would have around the protection of their individual privacy.

But until that kind of legislation is in place, I think there is a need to remain vigilant, taking all reasonable measures to protect the privacy of personal medical information. And while the effect of the proposed amendments, or those that have been suggested, to the Audit Act would provide Mr Peters and his staff with greater access to hospital records, including patient records, his view appears to be that such records be anonymized, and that is consistent with the view of my office. As I indicated earlier, we hope to have an opportunity to review the amendments to ensure that they are I guess what I'll call privacy sensitive.

The issue of confidentiality of medical records has been shown to be of considerable importance to members of the public, and again I'm pleased to have the opportunity to appear before you today. I anticipate that the involvement of my office in some fashion in developing amendments, as well as the privacy legislation under way, will address the privacy concerns.

As promised, that's the extent of my remarks this morning, and I'd be pleased to answer any questions members of the committee may have.

The Chair: Thank you, Commissioner Wright. Committee, members, there's obviously all kinds of time for questions here this morning.

Mr John Hastings (Etobicoke-Rexdale): Mr Wright, you were talking about the confidentiality of medical information and the potential for developing a model that would exclude a lot of names, addresses and more of a personal nature.

Yesterday we had a presentation from I think her name was Ms Price from the Elizabeth Fry Society, talking about the adverse editorial sort of information about an individual's behaviour who may be eligible for parole under the parole board. She was referring specifically to somebody making comments about an individual's behaviour and then another individual in the parole system maybe reaffirming or reconfirming negative, adverse information again, based on what they were reading.

I'm wondering whether you would like to comment as to whether we should be developing a similar model of information or disclosure that reduces that kind of repetitive negative editorial information about a person's behaviour in an incident in which they weren't involved but they're commenting on it because they've read it before. They think they've come across that individual, possibly.

Mr Wright: It's a little hard to comment on the specifics of that, but I'll try to catch on a few principles. I think one of them would be that you have to look at the context in which the information is used, and once again—and I'm talking about personal information—the need for personal information to be made available to the public in certain circumstances. I'm thinking again of your example of the parole board, if that is the one you're referring to, and what information needs to be out in public.

My understanding in that area is that by way of legislation and other public policy initiatives, there has been a shift around the kind of information, how much information, should be available to certain people who may be affected by the decisions of the parole board.

I guess the question once again becomes one of balance. How much information is it appropriate; how much do the privacy rights, the privacy interests, of the individual to whom the information relates; where do they fit when you balance against the public interest? Arriving at that balance in each situation is not a terribly scientific process. I think what is useful, though, is for a protocol or guidelines or something to be created so people know what they can and cannot do as far as the use of the information. I think that's one of the things I referred to in my remarks, that there would be an expectation that when your information is being used, there would be these kinds of controls in place. What they would be specifically would depend, I think, on the individual situation.

Mr Hastings: What is your thinking regarding the proposed smart card in terms of what kind of information, quality of information and principle of balance ought to be in place should we move in that direction?

Mr Wright: You have surprised me with that question.

Mr Hastings: Or should we not even be moving down that road?

Mr Wright: My gosh. Okay. Let me offer a preliminary observation, and I hope this doesn't surprise anyone that I would say that. I don't have a fundamental opposition to a smart card from a privacy perspective. What concerns me, and I think what concerns our office, is how it's done. There are ways to do it that I think we could show you would in fact protect privacy better than it is now. But I think the feature, and it would be of concern to me, is that as you move up the levels of protection of privacy, there are cost implications in doing that. So you can have a smart card which does all the things you would want it to do, and it also respects privacy, but it may cost you too much to do.

So I can't give you—I would try, if I could—a categorical answer, but I would say that I am not and our office is not fundamentally opposed to the notion of a smart card, depending on a number of qualifiers, one of which is how it's designed, whether encryption is used, who has access to the various information fields within the card, will there be data matching capabilities within the card, central database issues, whether that is a component of the card. There are a lot of things that would have to be looked at, but if the will was there, I think it's a perfectly workable alternative.

1110

Ms Ann Cavoukian: If I could add one remark, technologies of privacy like the type Tom was describing are readily available now, but of course there are cost implications. But some of the technologies that we're talking about can be done in a very simple way absent smart cards. Privacy protective features on smart cards often mask the identity of the individual—pseudo-identifiers. They try to make it difficult for the agency or institution you're doing business with to know who you are, other than the information that they legitimately need, so they restrict access.

But that principle can be done by anonymizing data in much the way that was referred to earlier. There are methods by which you can anonymize data in very simple fashion so that only those who have a real, legitimate need to access information would be permitted access, and for others, you can still keep track of a patient or the records. However, you wouldn't know that it's Ann Cavoukian's files moving down the system, for example.

Mr Colle: Just trying to get back to the area of concern we had as a committee in terms of getting into the MUSH area with the hospitals and universities and those confidential files, as you know, the auditor essentially I think believes that there should be accountability. Now, how do you anonymize medical files to ensure that the auditor isn't invading an area that, as you said, the consumer or the patient, for instance, in a hospital, isn't intruded upon by an auditor? What suggestions do you have? How do you proceed in that area to anonymize those files so the auditor can still play his role or her role?

Mr Wright: We have discussed this, and one of the suggestions that we would put forward would be basically to make a distinction between looking at the information and taking the information away with you and try to draw a line there, and basically accepting—and obviously I have no comments on it other than accepting the need for the information if that is indeed the case.

If you're onsite, if you will, looking at the information, then, fine, you look at it in identifiable form. But if you're going to take that information away with you as part of your notes or records or whatever, then our suggestion would be that it be anonymized, that there be some obligation on the part of the hospital to remove any personal identifiers, so when it has gone into someone else's hands, the potential for it being inadvertently disclosed out of the auditor's office is simply—well, it's eliminated, by and large, because you don't have those kinds of personal identifiers.

It's something that has been done in other areas, and I think it has some potential for meeting, as I said earlier, both those needs, of saying, "Fine, at first instance you can verify in identifiable form if you need to do it, but to do anything more with that information, take it offsite, you've got to remove those identifiers," simply to keep the risk down, because, as I believe I indicated, we are talking about very sensitive information which I feel requires that kind of special treatment.

Mr Colle: So instead of a specific name, part of the directions would be that the auditor's staff would not be allowed to see a name on a file, that that would be basically turned into a code or number. Is that the way you would do it, so hospital staff would be given that kind of direction to basically eliminate any kind of personal identifier?

Ms Cavoukian: Following up on the commissioner's remarks, in the first instance, when the auditor or one of his inspectors is onsite, then I think we would accept that he or she would view the information in identifiable form with the name associated with the file material. However, if that was to be taken offsite, either in whole or in part, thereafter, any information that would be removed and would travel to other individuals, that information would not have the identifier on it. So that information would either have a pseudonym on it or a unique identifying number which you would attach to it, some other method of linking of that and being able to assign a code to it. I think that was the distinction.

Mr Colle: The critical thing is not to be allowed to take it offsite. The other thing is, I guess the auditor's function wouldn't be one of specific, let's say, designation. The auditor is looking at groups—that's my understanding of it—is looking at trends, is looking at not microanalysis, I think is looking at macro trends in the way provincial dollars are spent.

Mr Wright: Certainly in my reading of Hansard that was my understanding, and it comes back to this question of, in what situations, and it may. I come before you this morning I suppose in some way painting worst-case scenarios, but I think we have to be aware of what the possible implications are, and in that situation the question does come up about, why would you need to look at an individual patient's records and how much detail would you need to go into? I think that's one of the concerns that we have raised.

Mr Colle: One final question I have in this round is, you mentioned the sensitivities in the area of college and university files or information, data that they may have. What areas would you find to be highly sensitive that

universities and colleges may have on hand or information they have that relates to individuals?

Mr Wright: Ann is assisting me just absolutely wonderfully here. One of the responses I was going to have, of course, is that—a couple of things. One is that universities have medical clinics attached to them. Second, they have counselling facilities attached to them. As a lot of institutions do, they get involved in harassment investigations. Things of this nature I would consider to fall into the category of sensitive types of information.

Mr Colle: It's almost like a pseudo or ancillary medical-type undertaking which universities do. Again, I guess it gets back to this thing about whether the auditor's in there to do this microanalysis or this macroinvestigation. I'm wondering whether as a privacy commissioner you could work out mechanisms or suggest mechanisms, as you do in the Ministry of Health, where you're putting these protections in place and then also giving instructions—not instructions but certainly let's say a general directive that this is a macro almost overview of what's going on in an institution rather than being interested in the specific activity of a specific individual as part of a university or even a group. It's basically the functions of that exercise or that responsibility that an institution may have. Is that possible to do, working alongside the auditor?

Mr Wright: I would want to be very careful about doing anything that would get involved in terms of what the auditor feels is appropriate. The auditor is the expert in terms of what the need is, and I would certainly defer to that expertise. But what I would be more than happy to do would be to discuss those kinds of issues around how things can be done. In light of discussions that we've had already, I think it's fair to say that Mr Peters is very sensitive to the kinds of concerns that you've just raised. I would think that we could have very productive discussions which would again go towards meeting the mutual needs here.

Mr Pouliot: My colleague and I had the opportunity to occupy a few ministerial posts with the previous administration, and of course, with the highest of respect, I can assure both of you that you quickly can become the "bête noire" among members of both political and ministerial staff. In fact, I've heard it said that you can be a royal pain through your vigilance. People at times will ask what is the ability of the state to operate. I know I went through the agonizing sponsorship of photo-radar and I was judged very harshly as a minister of the crown, so now it's indeed a pleasure to meet the people who have caused me many nights without sleep.

Mr Rollins: Did you pay the bill?

Mr Pouliot: I must remind you that I am now a member of the third party and also that I have immunity. It's those little fantasies of mine that you get to appreciate, so today is my day and I want to say thank you. Yet, who cannot appreciate the vigilance? I remember vividly Bill 26. You must have heard about it. It's part of the jargon here. It's an immense piece of legislation. You must have read about it; it was all over the papers. I read about it in both *Frank and Now* magazines and I wonder, if you should check your mail, that they don't photocopy these fine people at *Frank and Now*.

1120

The Provincial Auditor, the government and people, as a matter of fact, because it illustrates well, talk about "my citizen's medical record," which is an easy sell. Everyone relates to it; everyone has a medical record. Not many would wish to have that information, for obvious reasons, spread around, be it for an insurance policy, be it for the right to privacy. It's not the kind of thing that sits well with people.

I only have a comment but maybe you can help me: What is the line between—it's a nuance and maybe you can define it for me—respecting the state's right to operate, avoiding the witchhunt, and yet at the same time in that collectivity protecting the rights of the individual? It's not easy for governments, because they have to legislate for the collectivity and at the same time protect the rights of the individual. How do you reconcile that? Because the line is very thin in my book and it changes from issue to issue. What motivates you? What are your criteria? What do you look for?

Mr Wright: As far as where we come from, we work from what the Freedom of Information and Protection of Privacy Act says by way of the rules that appear in that legislation as far as the collection, use and disclosure of personal information. Trying to draw a line, I fully agree with you, is not an easy thing to do. I also will say that I don't see it as the role of the Information and Privacy Commissioner to attempt to draw that line.

I think what the Information and Privacy Commissioner has a responsibility to do is to bring to the attention of members of the public issues that need to be viewed. The public will respond to those issues as the public feels. I think at the end of the day that is, at least as I see it, the way the system works. The public will tell us, and you're absolutely correct that the public will respond differently depending on how they feel about a particular issue. The public seems, certainly from recent experience, to be concerned about medical information.

I think what you do then and certainly what we are trying to do, and with the deepest respect, I would include the case of photo-radar—I feel badly about your nightmares but I would like to simply say—

Mr Agostino: These guys took care of the nightmare, so there's no problem.

Mr Wright: What you try to do is to say that absolutely, the state has an interest and that interest has to be respected. Are there ways to respect that interest and also to look at the interest that people have around personal information? I think the idea of this morning of anonymizing information is one way where the Provincial Auditor, in the interests of the state, can carry out his function and at the same time do it in a way that doesn't put, in this case, health information unnecessarily at risk. That's certainly the approach, and I appreciate that you may not fully share this view, that we have tried to take, that there are ways of doing it that address both sides.

The Chair: Any further questions? Mr Wright, why don't I, with the permission of my committee members, just profit from your presence here. I'd like to raise something with you. It arises out of the line of questioning that Mr Pouliot was following. I'm unclear as to the principles which should guide government, or us as

legislators, in determining whether or not public interest ought to override privacy concerns. Are there principles, have those been articulated and can we have them now?

Ms Cavoukian: There's a set of principles that is very widely known and highly acclaimed in the privacy community. They're called fair information practices. This is a set of principles entrenched in all privacy laws worldwide that reflect basic practices in the fair treatment of information by government organizations that are collecting that information. They're not restricted to government organizations, they can also apply to private sector organizations, but the history of them has evolved in the context of government or the state collecting information from its citizens, and what is the proper role to be played? How is this information to be respected while on the same hand acknowledging the legitimate need for government to access and use this information?

Without getting into a long list of what these are, they're not very complicated, they're relatively easy to apply and it requires just an understanding of the fact that this information belongs in the first instance to the data subject: the individual. If you start from that premise, the times that government should use the information are when there is a legitimate need, that need or that use should be identified to the data subject, to the individual, the purpose explained and then the use of that information should be restricted to the use identified to the individual. End of story.

It's never quite that simple. There are of course legitimate exceptions where you may need to share that information with another organization in government for a compatible purpose consistent with the first use. There are a number of other exceptions that come out. But I guess the premise is that you limit your use of the information, you identify it to the individual and you use it essentially for that purpose. There's more with respect to disclosure and retention of records, but these can be made readily available to you in terms of information relating to these practices. It's not new and it may be helpful to you to have some information concerning them.

Mr Wright: If I may add two comments to that. For example, in the area of smart cards, which were referred to earlier, one of the things our office has suggested is that as part of the development process there would be a privacy impact assessment done, in terms of the principles that Ann has just mentioned, and how that would impact on those fair information practices, which I think again is just an opportunity; in many ways I think it's to the advantage of all concerned to simply factor this in at a very early stage and not wait for the unknown. I think in fairness there is an unknown element to it, and trying to define that line between what should or shouldn't be done is, if not difficult, virtually impossible.

I think at the same time that privacy, as I see it and as our office has tried to articulate, does not have to be a barrier to doing things. What I will say as well, though, is that there has to be a willingness, I believe, to take into account the validity of the privacy concerns. That's all I every suggest: Take it into account when you're doing something. You will find, and I think the experience has been, that organizations that do this find they can do exactly what they want and they can do it in a way—and

to my mind this is what is very important—that's every bit as effective and in fact arguably more palatable to members of the public. I think a very important part of doing any of these kinds of things is to achieve the success, achieve the goal that you're trying to. This is one issue where by simply taking it into consideration, factoring it in, you make it easier to do.

1130

The Chair: Thank you. When you raise concerns and these are publicized, is that kind of like a final decision on the part of your office to some extent or is it with a view to stimulating or provoking debate, and at the end of the day it's up to the public to make a decision whether it's a valid concern or not?

Mr Wright: Your last comment I completely agree with, absolutely. It's up to the public. Also I would add to that: It's absolutely up to the government at the end of the day to make its decision what it wants to do. I have never pretended nor would I expect, because I happen to have the good fortune to be in the position of commissioner, that that's my decision to make.

I think there is an element, and the legislation clearly says that, an obligation on the part of my office to raise these kinds of concerns, but at the end of the day, the process, the political process, the parliamentary process, is what governs. I fully respect that fact and that reality.

Mr Colle: A couple of areas of concern here: There seems to be a trend, whether it is when you're consuming government services or private services—as you know, there's now the direct deposit Interac system in stores and whether you are going to go into—obviously, there's going to be some kind of smart card technology, probably used in Transportation or in the Ministry of Health.

There is a growing trend where there are databases being created that monitor basically more and more of your activities. You can trace the time and place when you go to your Green Machine. They've done this in criminal cases. They know the time and place when you've shopped at the local store, now even the grocery store; it's recorded. When you're on and off the highway, that monitoring is—is this trend one that can be controlled or is it just too large? It's in every aspect of our life now and growing. I think we're just, as you said, on the edge here. Are we going to be able to control this monitoring basically of daily activities of human beings?

Mr Wright: I'd begin by saying that I consider myself to be an optimist. Whether you can actually control it is a different question. What you can expect to do is to at least have the rules in place that deal with the kinds of things that Ann mentioned in her response to the Chair's questions, what you can collect, what you can do with the information once you collect it and whom you can give it to, the fact that the individual will be able to find out what kind of information you have about them and to correct that information if it's inaccurate.

These kinds of rules would make a difference and there's been some momentum in that way. The Canadian Standards Association, the people who certainly for me and perhaps for yourselves are most familiar with the little tags they have attached to electrical appliances, have come up with a model privacy code for business which they've worked on for three years and have finally agreed

on, and I think the idea is that as a voluntary code businesses would respond to this. The Canadian Direct Marketing Association has rules in place around what their members can do with the information.

I think there is an opportunity to address those concerns because I fully share them, but it will take willingness on the part of industry, possibly the involvement of government. There's been talk at the federal government level of some form of data protection legislation, privacy legislation, for the private sector similar to what exists right now in the province of Quebec and has existed since January 1994. There are ways of dealing with it. Whether it happens or not obviously is well beyond my control, but it could be done.

Mr Colle: The other thing I fear that is happening is that, as you know, databases are sometimes more valuable than any currency or money. It's currency basically; information is a very valuable commodity. I know what happened recently, in the last couple of years in the greater Metro area, was that a number of consulting firms got hold of databases dealing with property taxes. These are runs that the Ministry of Finance did on people's property and then the municipalities had them, but certain private consulting firms got hold of this database and they made huge fortunes of money, windfall profits, by just targeting people who might be eligible for a tax assessment reduction.

The temptation is that people are obviously entrepreneurs and you can't blame them for that, but then government will be offered money for information, for data. How can you protect or how can you develop a certain approach that will at least try to ensure that government, and governments are always scrambling for money, doesn't sell this information? Who's to say? "This is just your property tax. It's public information." On the other hand, there is this temptation for governments, which are going to have all this data, are going to have basically the potential through selling it off to make huge revenues from selling off this data. How do you stop that kind of allure of pocketing the revenues from the selling of data?

Mr Wright: There are two parts to the response, specifically with respect to the assessment records. In law now—I believe it is in the Assessment Act—that information is designated as being publicly available information. There are really no restrictions around the sale of that kind of information, in that example. But looking at what might happen beyond that, I refer to the Management Board of Cabinet directive dealing with the sale of information, and that directive, I think very directly, touches on the issue of personal information and suggests that is not an item that is appropriate as far as the sale of any data the government may hold are concerned, and I think that, as well, provides some kind of indication what should not be occurring.

Once again, there is the ability through the legislative process to make a particular database, whether it's assessment or some other, a matter of public record, in which case people can take it and do with it as they wish. Adding to that, of course, is the fact that they can take that database and that information, and since it's in electronic form it can be easily manipulated. It can then be combined, matched, whatever, with something else and before you know it you have this perhaps extensive

profile of you, me or whomever, which I think we all have cause to be concerned about.

Mr Pouliot: In your opinion, does the Quebec model offer more protection for its citizens than the Ontario?

Mr Wright: Mr Pouliot, all I could say is, absolutely, yes, simply because what it does is—right now in Ontario we have the protection in place for public sector organizations, governmental organizations, municipal and provincial; nothing in place for the private sector. That's what the Quebec legislation does. It moves the same kinds of principles and applies them to private sector organizations.

Mr Pouliot: And there's no tradeoff, not restricting the ability of government to conduct its business?

Mr Wright: There have not been reports—we are in regular contact with our counterparts in Quebec and the impression that we've been given, certainly both from an industry perspective as well as governmental, is that the legislation works.

Ms Cavoukian: Perhaps, if I could add, more importantly, the economy has not suffered at all. We've had the benefit of two years' experience now. We've heard from both the business community and our counterparts in Quebec that this legislation has not impeded their ability to continue with business, and quite the contrary, businessmen in Quebec are using the privacy protection they now extend to their customers as a marketing tool. They're using it to their advantage, which is quite fine, but it's certainly not tying their hands in any way.

Mr Pouliot: Thank you very kindly. I'm now convinced that the Provincial Auditor in future comments would have at the ready in his or her library a copy of the Quebec model because I'll be checking on them and I'll make sure it's well read. I thank you very much.

The Chair: If there are no further questions, Ms Cavoukian, you made reference that you might be able to provide us with a list of principles. If you could do that, we would appreciate that.

Ms Cavoukian: Yes. Send it to you, sir?

The Chair: Send it to the clerk. Thank you very much on behalf of the committee.

Mr Colle: Mr Chairman, I hope it's understood that the auditor will continue to consult with your office as we continue to examine the new amendments to the auditor's act etc, so we appreciate your input already.

The Chair: The committee stands adjourned until 2 o'clock this afternoon.

The committee recessed from 1140 to 1400.

RETAIL SALES TAX

CANADIAN COUNCIL OF GROCERY DISTRIBUTORS

The Chair: Good afternoon, ladies and gentlemen. Welcome to the continuing hearings of the public accounts committee. Our first presenter this afternoon is the Canadian Council of Grocery Distributors. Welcome to the committee. We have allowed one half-hour for your presentation.

Mr Max Roytenberg: My name is Max Roytenberg. I'm a vice-president of the Canadian Council of Grocery Distributors.

Ms Arlene Lannon: I'm Arlene Lannon. I'm director for Ontario for the Canadian Council of Grocery Distributors.

Mr Roytenberg: I have a brief submission and I'll read it to get it on the record. It won't take long. We'll have plenty of time for questions.

The Canadian Council of Grocery Distributors appreciates this opportunity to present the views of distributors and retailers in the grocery business to the standing committee on public accounts. The issues before the committee are of great interest to our members. Our members collect the majority of the provincial sales tax in the grocery trade.

Ontario grocery distributors are responsible for in excess of \$15 billion in grocery sales and the employment of 125,000 Ontarians. Our particular focus in the submission will touch on the collection of retail sales tax on tobacco products. You've already received a submission from the Retail Council of Canada and it sums up the views of the retail sector. It is our view that the current situation requires an urgent evaluation.

While the number of wholesalers in the grocery trade are few, the number of retailers number in the tens of thousands. The current regime requires both wholesalers and retailers to collect the retail sales tax depending on their particular corporate organization and the nature of their distribution business.

While all our wholesale members are organized and have in place systems to ensure full compliance in retail sales tax collection where they also act as the retailer, the same cannot necessarily be said about all parts of the retail segment of trade. For some retailers with limited volumes, the establishment of systems for retail sales tax compliance is very costly in relative terms and even inefficient. When we add the equation of the problem of a product like tobacco, with its high unit value, a history of non-legal distribution and the province's limited policing resources, the whole process of tax collection can become problematic.

Our members have grown increasingly concerned to see again a mounting diversion of tobacco products between the wholesale and retail level. This diversion undermines the economic viability of those many retailers who are fully complying with the regulatory framework for the collection of the retail sales tax. This growth in illegal channels of distribution for tobacco products, after their sale by the wholesaler, creates a competitive advantage for illegal sellers of such products.

This diversion results in a loss of revenue by the provincial government as well as having an impact on legitimate retail sellers of tobacco products. It is difficult at this time to estimate the cost, but our members consider it to be very substantial. For each carton entering illegal channels of distribution, the provincial government loses about \$1.75.

We as an industry have come to the conclusion that the burden of collecting and accounting for tax on tobacco products is better placed at the wholesale level of distribution, which is often better equipped to handle such matters efficiently. Wholesalers are already accounting for and remitting provincial taxes. Avoiding duplication for tobacco products at the retail level will create operating economies at the retail level.

Shifting the responsibility for payment of retail sales tax on tobacco products to the wholesale level will go a long way towards ensuring that provincial revenues will not be lost. At the same time, this change could create a more level playing field for operators at the retail level from a competitive point of view.

We have become aware of a recent action by the government of Nova Scotia to institute a measure of this kind and a partial copy of—I say legislation here, but it's proposed legislation; it has not yet been promulgated—is appended.

We are all conscious of the financial challenge being faced by the province of Ontario. We believe that the suggestion contained in this submission will operate in the direction of improving the conservation of the province's financial resources while putting an end to a trade problem we face and improving industry efficiency. An important consideration must be that such a procedure will ensure distribution through legal channels where compliance with provincial regulations regarding the sale of tobacco products to minors can more reliably be enforced.

Mr Stewart: Thank you for your presentation. If I understand this right, you're suggesting that the wholesaler pay the tax.

Mr Roytenberg: That's right.

Mr Stewart: I am a little concerned when I think then that when it goes to the grocery store, he's paying the tax prior to selling the product, which in my mind is a bit costly for the grocer. All of a sudden he's got a great deal of money tied up in tax before he gets that back. Do you think that is acceptable from their standpoint? Because it will be a major cost factor for him.

Mr Roytenberg: Tobacco is one of the most rapid turnover items in the store. So what you're saying is correct, sir, but in fact the turnover between payment and receipt of payment from the purchaser is very short. If he manages his inventory in a proper kind of way, the time involved will be short from his point of view.

Mr Stewart: So you're suggesting plus the fact that they don't buy the quantities of that product because of efficiency of distribution. You don't see it as a problem of tying that money up.

Mr Roytenberg: I'm sure there's a differential cost, as there always is when you make a situational change like that, but people are already minimizing their inventories, for safety reasons, for security reasons, and because even without the tax it's a very costly investment. So in this aspect of the business, the turnover is rapid and the holdings are relatively small.

Mr Skarica: Before you address the problem, I'd like to know how big it is. You say there is substantial illegal distribution of cartons of cigarettes. What would substantial be? Could you give us any kind of approximation?

Mr Roytenberg: My members were not prepared to estimate, but the degree of their concern indicates to me that it is substantial. I could not get them to give me a figure, but they urged me to make these representations to you.

Mr Skarica: So you can't tell us whether it's 5% or 10% or 50% or give us any percentages at all, like a global estimate.

Mr Roytenberg: At the height of the illegal distribution, we were getting as much as 75% and 80% being diverted from the normal channels. I'm not suggesting it's that, but it's conceivable it might be 25%.

Mr Skarica: Has there been any study done on the correlation between the rate of tax and the amount of illegal distribution? For example, in Alberta, I gather there would be virtually no illegal distribution of cartons of cigarettes. Is that fair?

Mr Roytenberg: There certainly seems to be a relationship between the level of tax and the amount of illegal distribution.

Mr Skarica: Government has a history of trying to fix something, putting in another program, and it just gets worse. The simple solution would be to gradually eliminate the rate of tax, it would seem to me, to get to the point where Alberta is where there is no illegal distribution because there's no incentive to do so.

Mr Roytenberg: I think everybody would welcome less taxes rather than more taxes. We're faced with an economic situation which I don't think allows us the luxury of perhaps considering that option. If the government has the resources to do that—well, of course, obviously. There are some other considerations on the part of some sectors of the population regarding whether that would create an incentive to increase smoking.

1410

Mr Skarica: The classic way of dealing with this in the past has been to enforce the laws. How much money would be required, how many investigators would you need, to enforce it if we kept the same system we have now? How many tax investigators would be needed to fix this "problem"?

Mr Roytenberg: I think one of the reasons why we're coming to the table with this suggestion is we don't believe the existing compliance system will respond to the challenge that the system is facing. I cannot give you figures that you're requesting. But certainly whatever we're doing hasn't in the past met the challenge nor is it likely meeting it now.

Mr Skarica: My last question was the penultimate one. I foresee a situation, then, where the wholesalers themselves would be put in a similar situation, where some wholesalers, perhaps to gain a competitive advantage, would be buying illegal cigarettes on their own.

Mr Roytenberg: There are very few wholesalers. They're easy to police.

Mr Dave Boushy (Sarnia): I'd just like to read a very brief statement into the record. It's taken from Maclean's magazine, February 12, 1996, which says: "Nova Scotia Finance Minister Bernie Boudreau seems to have stuck in his thumb and pulled out a tax plum. In November he eliminated the retail sales tax on cigarettes, transferring an equivalent levy to cigarette wholesalers. Early estimates indicate the move will help the province recover an additional \$15 million a year."

Mr John C. Cleary (Cornwall): You had mentioned about 75% there illegal, contraband cigarettes coming in. I totally agree with you, it was that at one time, because I happen to represent the Cornwall area, and I know what's going on. I know that many of the grocery people in our area were not selling any cigarettes at all at that

time, very minimal. Right now, it's better because there's a joint task force in place that is doing its best.

The gentleman over there mentioned about how many investigators it would take. I guess my answer to that is, you don't know how big that thing really is. You have them coming across by skidoo, you have them by boat. I was out there looking at the problem, and it's big. It's still big. The government is losing all kinds of money. They're coming by van loads, and coming over to the 401 and going east or west. So it's a big problem.

I don't know what the answers are, but it worries me somewhat, the cutbacks, because the OPP is involved in this investigation, and I know they've had cutbacks and they've had their members taken to other areas in the province. It's quite worrisome, and it's very dangerous right at the moment too. Anyway, I just wanted to mention that I think you were very generous in your 75%, because I know it was that or more at one time.

Mr Roytenberg: Mr Chairman, the honourable member, I think, is entirely correct, but I would not like to suggest that what we're proposing will solve the problem at the border. This is not a solution for that. That effort has to continue, and I think the move to reduce the tax has had a salutary effect in that direction, but we will probably always have it with us to some extent. What we're talking about are existing channels of distribution, which are broad and which permit large flows of product within the legal system; which, because of the multiplicity of outlets at the retail level, are impossible to police and make it, it appears to us, sensible to consider an alternative which at one stroke will minimize some of the burden on our existing policing efforts and collect resources which rightly belong to the province.

Mr Cleary: I agree with what you're saying there, but I just had to say what I did because many of the smaller distributors of groceries in our areas depended on that market to survive. Since the tax was taken off it has helped a bit, but it's still a big problem out there.

Mr Roytenberg: The current situation, sir, adds to that problem, right? If it was collected at the wholesale level, those who are complying would not be under that competitive pressure.

Mr Colle: Briefly, have you got any recent data in terms of the impact that the legislation just passed in Nova Scotia has had? Have you heard any of the analysis of that?

Mr Roytenberg: I could ask my colleague to speak.

Ms Lannon: With regard to the legislation in Nova Scotia, I was speaking with them today and what in fact has happened there is that they did have a retail tax on tobacco. That has been removed; there is no longer a retail tax on tobacco. They have put what was the retail tax and added it on to—under the tobacco act it has become a tobacco tax at the wholesale level and my understanding is that they anticipate—I'm sorry, I don't have the same figures as this gentleman over here had—that this will solve or partially solve the problem they do have now with contraband and thus make up the loss that they're feeling in tax. This particular act that we have included here has not as yet been promulgated, but they are at this moment, under the tobacco act, collecting that tax.

Mr Colle: So it's already in effect although this act is not passed.

Ms Lannon: That's correct. It was, I think, as of November 1995.

Mr Colle: Under the existing act they were able to direct that.

Ms Lannon: Yes, that's correct.

Mr Colle: I see. That's what the status is.

Just as a point of information, early on we did ask for this act to be brought forward. We were aware of the changes that the province of Nova Scotia has made in a variety of areas with the retail sales tax in their province. So we've got that act, all of it, and we were looking at that very seriously as a way of gleaning some good ideas from what they've done in Nova Scotia.

Mr Roytenberg: Mr Chairman, you would certainly have the distribution industry's cooperation in implementing a similar program here.

Mr Pouliot: Welcome. I find this all in agreement with the proposal and you're right, sir, that it keeps on being difficult times and governments are not sympathetic to yielding revenues, especially when those revenues are received from traditional sources such as sin taxes, if you wish—the evils, the demons of alcohol associated by marriage with the very damaging habit which is nicotine, or cigarettes.

But we too when we were the government, at cabinet, looked long and hard at a discrepancy, a shortcoming, between \$450 million and \$500 million. In fact when I was Minister of Transportation, I was asked to attend a meeting in Tillsonburg. In my opening remarks—I was entering tobacco country. You could smoke in the council chamber. It was so terribly civilized and somewhat elegant. They asked me to turn around and go to the real tobacco, and I found it. I ended up in Cornwall—\$450 million to \$500 million in lost revenue. So we looked at the wholesale picture that says if you go as close as possible to the source you may strike gold.

Someone said, "Why don't you do it at the manufacturing level when it comes off the line, as soon as it gets into the package, and then you'll really be close to the truth?" Our snag, among others, was the distribution system. We didn't have a handle on it, because the cigarettes would leave, go to the States and come back through a réseautage, through different channelling systems, preferably under the cover of darkness, cloak and dagger. People are very innovative, especially when it's quite lucrative.

I know in Quebec it was 60% or 70%—and I don't think I'm catastrophizing—illicit. The government will be watching very closely the impact on Nova Scotia. It's embryonic yet, but what is the difference if we speculate between the distribution system and its impact in provinces such as Nova Scotia and Ontario? What I'm asking is whether what's good for Nova Scotia would be applicable in Ontario.

1420

Mr Roytenberg: The reason my members have suggested I appear before you is that we feel that, although conditions are always different, they are not so different that it couldn't work here as well. And the reason why, again, is that there are few distributors and very, very, very many retailers. When you have few outlets then it's much more easy to supervise, it's much more easy to police and it's much more easy to ensure

that the bona fide people are handling the product the way they should.

As I say, it doesn't solve the problem of transport across borders. That is an area of vigilance that must continue, but for that vast majority at this time a product which flows through legal channels to the wholesale level and which we now find offers opportunity for diversion after that level, this could solve the problem.

Mr Rollins: One of the things I would like to point out to you people, and I listened quite closely to your idea, in the gasoline business, which I'm in, we pay the tax. As a buyer of the gasoline, I pay the tax. The wholesaler collects the tax. The oil company that I buy the gas from collects it. It works very well in that system. They don't allow me as a taxpayer—and yet I collect tax on oil and on labour and everything else, and in most cases I send it in at the end of the month, or I'm told that. But the thing of it is it's got to be—

Mr Pouliot: Hansard, I hope you got that.

Mr Rollins: In most cases I do; in all cases.

However, with the gasoline, I don't have that opportunity to make an entry of a cash register or anything else. It is already paid for at that same time, so I think that's some support on your part with the same way of the wholesale part of it. I think that needs to be—and that's one industry that has worked and what their wisdom was, when they brought the sales tax on, to collect it through that method, that's the way it goes in.

The Chair: Thank you very much, Mr Roytenberg and Ms Lannon, for taking the time to appear before us today.

ASSOCIATION OF CANADIAN DISTILLERS

The Chair: Our next presentation will be made on behalf of the Association of Canadian Distillers. Good afternoon, Mr Veilleux. Welcome to the committee.

Mr Ronald Veilleux: Mr Chairman, members of the committee, we welcome the opportunity to make a short presentation to this committee today. Most of you are very well aware of the significant problems facing our industry. It's a problem of excessive taxation leading to loss of revenues for both levels of governments and, obviously, for our industry.

Today I would like to bring to your attention three key issues: The first one is the Ontario retail sales tax imposed on different products, taxation and the underground economy and the impact it has on our industry and the RST loss because of that underground economy.

I think you had a presentation this morning from the Ontario Restaurant Association, Mr Paul Oliver, and he explained the different taxes imposed on different products. If you go to page 2 of your presentation, there's an RST of 8% applied to most goods and services in Ontario, but there's a 12% RST applied to beverage alcohol products for off-premise consumption and 10% applied to beverage alcohol products for on-premise consumption.

Knowing that beverage alcohol products today are excessively taxed compared to our neighbour to the south, the US, and knowing that this excessive taxation of 83% in Canada versus 43% in the United States leads to a tremendous amount of underground activity and tremendous losses to the federal and provincial governments as well as to our industry, we suggest it would

make a lot of sense if we had only one RST applied equally across the board at the 8% level. Our point is, why again surtax or overtax beverage alcohol products which are already excessively taxed?

I'd like now to turn to taxation and the underground economy. I have distributed to you a report produced by KPMG and published in September 1995. This report states that there's a serious loss of public confidence in government's ability, both federal and provincial, and I should include municipal, to spend taxes wisely. That's the perception, and you ladies and gentlemen know better than I do that in politics perception is reality.

There is a strong perception out there—as a matter of fact, 56% of Canadians and Ontarians believe that their taxes are not spent wisely. These escalating taxes that have been imposed, combined with this perception that they are not spent wisely, is leading or pressing ordinary folk or citizens to adopt the underground economy or to go to an alternative which they believe has the correct price for the goods they want to purchase.

This has become a very clear situation for Canadians and for Ontarians in the last five years and it's due mainly to NAFTA, the FTA and the famous GST, which brought to the attention of Canadians that certain products are excessively taxed in Canada and in Ontario versus the same product taxed in other countries, thereby opening the door and inviting many Canadians to use the underground economy or some type of illegal system to acquire these goods.

For our industry, numbers released by the Liquor Control Board of Ontario indicate that there's a loss in excess of \$500 million per year. I would like to repeat, \$500 million per year is lost to the underground economy. With an RST of 10%, this is \$50 million per year minimum that the province is losing.

We're not incorporating in this half-a-billion-dollar loss the losses to our industry. This is corn, grain, bottles, jobs, cardboard, packaging, marketing, distribution that we do not do, that the marketers and the illegal producers don't do either. They don't pay taxes. They don't publish annual reports. They just buy other illegal goods with it. It does not include the impact on the tourism and hospitality industry, significant numbers again, and it does not include the losses to the federal government. There's a significant amount of tax revenue lost each year at the federal, provincial and industry levels.

I have circulated to you some reports. I've already mentioned the KPMG smuggling report, but there's another report produced by the Conference Board of Canada. That report again makes the case that the issue is not really whether or not you should tax spirits, beer and wine at a specific level in Canada. The issue is that the same products sold an hour away south of the Canada-US border are available at a third of the price in certain states and mainly at half the price, and we all know that the border is becoming increasingly open and people are taking significant advantage of that.

1430

I have also included an Ontario Stakeholders report, which was released in April 1995. I have only brought to you the executive summary because the report is fairly heavy. That report again makes the point that a significant amount of taxes is lost every year to the hospitality

industry because of the excessive taxes imposed on beverage alcohol products. I have also included in your report a summary of some recent evidence produced by the Fraser Institute.

In summary, we are asking today, is it possible to level the playing field and impose an RST of 8% on all goods and services in Ontario? We should not as an industry be treated differently.

Secondly, I believe that this committee could make some very clear recommendations to the Minister of Finance and to the Ontario Legislature to the effect that as long as taxes in Canada on our products are at the level they're at while those taxes on the same products south of the border are half of what they are in Canada, we are inviting Ontarians to do what they do today because people, taxpayers have lost confidence in the system. I strongly recommend that this committee study in depth the possibility of rectifying the inequity which exists between the United States and Canada.

Mr Colle: Thank you very much for taking time to come down here. There are some very interesting points that you've made. One thing I want to get clear is in terms of the Ontario retail sales tax. We know it's 8% on general merchandise etc. Then on alcoholic beverages that are off-premise consumption, do you want to explain that, what you mean by that?

Mr Veilleux: On-premise would be going to a restaurant or hotel and buying spirits, beer or wine.

Mr Colle: There's 10% on top of the—

Mr Veilleux: On top of the 83% taxes you pay.

Mr Colle: So it's basically 18% on that alcohol if it's consumed in a restaurant. Right?

Mr Veilleux: Yes. The RST is 10%.

Mr Colle: Then if the alcohol is consumed off-premise, what do you mean by that?

Mr Veilleux: Off-premise is alcohol that is purchased either at an agency store or from a licensee who has the right to sell beer, wine or spirits. The LCBO has the right to sell—

Mr Colle: You take that bottle home and drink it, or at your friend's place or whatever it is. Again, that's 8% plus 12%, so it's 20%.

Mr Veilleux: No, no, no. I'm sorry. It's not 8% plus. I just put the 8% in there because this is the normal RST imposed on products in general in Ontario as a provincial sales tax. For beverage alcohol it's different and I'm suggesting that we should not be different; it should be 8% for all.

Mr Colle: Oh, I see. So it's not 8% plus 12%?

Mr Veilleux: You're right.

Mr Colle: It's 4% higher if you buy that alcoholic beverage—

Mr Veilleux: That is precise, yes.

Mr Colle: You're recommending that it be reduced to 8% like other products?

Mr Veilleux: Across the board, yes.

Mr Colle: Then for beverages in restaurants, instead of being 10% it would go down to 8%? So it's a 2% reduction.

Mr Veilleux: That's right. Precisely, yes.

Mr Colle: Have you done an analysis? I haven't had a chance to go through the Peat Marwick stuff here, but

in terms of where the tradeoff comes, in terms of what we're losing as a government in tax revenue, what we're losing as a government in economic impact as it affects, let's say, the potential extra profits we would make or extra revenues the government could reap if the tax was lowered, is there sort of an evening off that taxes place?

Mr Veilleux: Yes, there is. As a matter of fact, we presented the study to the Minister of Finance on February 15. The study indicates that if we are able to lower the tax and recoup approximately 50% of the underground economy, then the government breaks even. Now there's another piece to this, because if there is a 50% recouping of the underground economy, the federal government will make an extra \$75 million, because for every bottle that they get back, they have the excise duty that they pocket. The suggestion was that there should be some discussion between the federal and provincial ministers in order to maybe share that profit. If that was done, then maybe in our calculation you do not have to recoup 50%, you only have to recoup about 40%.

Mr Colle: In essence, you've made that economic argument, you've done that analysis in terms of demonstrating that you won't necessarily be out of pocket as a government if you reduce the tax, because you're going to have the ability to recoup more sales tax, you're going to create more employment etc as a result of the business basically being legitimate and above ground.

Mr Veilleux: That is precise. In addition to that, I would like to point out, as it is in the Conference Board study, that our industry in Ontario contributes \$900 million of economic activity per year and about 5,000 jobs. This \$900 million of economic activity is in trouble in the sense that if the underground economy continues to grow, we will lose that.

We have closed 10 plants in Ontario in the last decade. Even at that, today the remaining plants are operating at 50% of their maximum capacity. So there have to be more closures. It's not totally due to the underground economy because we all know that people do consume less. People consume much more in moderation, and thank God for that, but if you do the study, the decline in legal sales at LCBO stores over the last decade has been about 50%. But if you look at the data available from StatsCan and Health and Welfare Canada, people tell us that they consume 20% less, so there's a big gap of 30%, and that 30% is the underground economy. So in Ontario it's a bottle in three; in Quebec a bottle in two.

Mr Colle: So you've taken that into account, that there's been a dropoff in consumption.

Just one last area: I'm just trying to get a sense of the differential between US cost and Canadian cost. It seems to me in an American restaurant—I know we had Mr Oliver here before—usually you get a bottle of wine for \$8, \$10. Here it's lucky if you get a bottle for under \$20. Alcohol seems to be the same in terms of prices and this differential in sales tax doesn't seem to be the only factor. What other extra taxes would a consumer of alcoholic beverages be paying here in Ontario that are not paid by a consumer in the United States? Where is the other cost coming from besides the sales tax?

Mr Veilleux: The other cost comes from the federal excise tax. In the United States, the federal excise tax is

about half of what it is in Canada. The other piece is the markup imposed by the provinces in Canada versus the markup that is taken by the controlled states, which are controlled liquor boards in the US, and that makes a difference. But in the United States, if you have an uncontrolled or a privatized state, there's no markup. If I can use an example of a bottle of, let's say, Canadian whisky, for which you will pay \$20 in Ontario, \$17 is taxes, \$3 is the manufacturer's price. In the United States, the same bottle of Canadian whisky, produced in Canada, exported to the United States, will cost you \$10. The producer will take \$4 and the balance is taxes plus the profit of the distributor of the licensee. You can see that our industry would be much better off if we did everything in the United States, because we can sell at a higher price and the consumer can purchase at a lower price. Therefore, there's no underground economy.

1440

Mr Pouliot: Following Mr Colle's series of questions, we're talking in terms of American dollars and Canadian dollars. We don't factor in the 38 to 40 cents on the exchange at present, do we?

Mr Veilleux: I do, Mr Pouliot, yes.

Mr Pouliot: You have factored that in?

Mr Veilleux: Oh, definitely. In the reports that I have tabled in front of you, we're talking dollars; whether they're Canadian or American, they're the same.

Mr Pouliot: I thank you. I need your help. This morning, we had some restaurateurs, people in the service trade, painting a rather grim picture as to their mandate to collect on behalf and to remit, and during their lament they produced four bottles of wine. Oh, they took the wine back after their presentation, I can assure you. Their statistics—I want to put this into what you have, Ontario retail sales tax rates. My understanding is that you're talking here about beverage alcohol. You're not talking about wine. You're not talking about products that are other than what the Ontario or Canadian distilleries distil in Canada.

Mr Veilleux: That is right.

Mr Pouliot: When you make your analysis as to the US and Canadian market, you're not talking about Drambuie, Grand Marnier, Château Margaux.

Mr Veilleux: Yes, I am.

Mr Pouliot: You are?

Mr Veilleux: Yes.

Mr Pouliot: If I was to go to the United States tomorrow, I would find the differences across the board of what you have indicated here?

Mr Veilleux: Yes, you would. May I say, maybe not all states, but the issue is, it does not have to be in all states.

Mr Pouliot: I am not talking about Utah and the like, but grosso modo, generally speaking. Some of those products which are very excellent products cannot be found in all states as readily as others because of the mentality, the lack of conformity.

How many litres here? Nineteen million litres of spirits are smuggled into Ontario annually. What is that in terms of percentage of consumption?

Mr Veilleux: I do not have these numbers in front of me, but they're available and I have them. Let's say that

in Ontario per year legally the LCBO sells approximately 5.5 million cases of alcohol. Nineteen million litres—there's nine litres to a case, so that would be about two million cases. So the total in Ontario you would sell that people will consume—this is Ontarians, tourists and visitors—is approximately seven million cases of alcohol, of which two million are illegal.

Mr Pouliot: Thirty per cent?

Mr Veilleux: That's approximately.

Mr Pouliot: I want to track this down with your help. I'm not a connoisseur. If I wish to buy a beverage, I will go to the local LCBO. I think they've come great strides. They're very well appointed. It's a good atmosphere and you feel good in there.

Mr Colle: That's when you leave, you feel good.

Mr Pouliot: That's right. That's no problem. Let's follow the trail here with a bit of tracking. Nineteen million litres; I mean, people like me don't have access to that. I would be such a small consumer. I don't run an establishment. Where do those 19 million litres go?

Mr Veilleux: The KPMG report indicates that approximately 20% to 25% of these litres are consumed or sold in licensed establishments. That would be hotels and restaurants, motels and bars. The rest of it is consumed by Ontarians and average Canadian taxpayers. That's the study. Also, this parallels what occurs when the LCBO sells alcohol legally. The LCBO will confirm to you that about 20% to 22%, or maybe 25%, of its sales are sold to licensed establishments; the balance is sold to the average Ontarian.

Mr Pouliot: Life's a dream and I have great confidence in the entrepreneurial spirit and so on. Of course, I hear the constant concern about the degree of taxes that they pay and they're obliged to charge the consumers more than they would really like because those people are good-hearted, and yet I'm trying to reconcile this, having had faith in all through my life and an admiration for the entrepreneurial spirit.

I'm torn now because, you see, you come here with an excellent presentation, a lot of data bank and a theme of pointing the finger that all is wrong, that that was tough, that was trapped, reached the table of sin because of high taxes. This is staggering that we would have 20% of people who sell alcohol through licensed establishments doing some of it illegally.

I'm surprised that to this date the government du jour, the government of the day has not proclaimed that it will soon go back to the old days—because they're very good at doing that on other pieces of legislation—and proclaim prohibition. I hope this is not futile, because next year when you come back, we might be under a state of prohibition as in the old days, as the temperance spirit is being revived almost daily around here.

But having said this, I'm really surprised. I will ask, value for money? We're getting taken to the cleaners and I'm not so sure that it's all on account of taxes, or if it's not easier the second time around. If you do it once, it becomes a matter of a mindset and a lifestyle and taxes are used as a convenience in the argument.

Mr Veilleux: If I may, Mr Chairman, provide an answer, this is not unique to beverage alcohol products. You've heard the lady and gentleman before me talk

about taxation on cigarettes. I would point out that it doesn't matter what the product is. You find a product where there is excessive taxation on it, I'll show you an underground.

If you go to this KPMG report, that's exactly what it says. Some of you may be aware that in doing this study the RCMP officers or former RCMP gentlemen who did this study visited some of the establishments where this material comes through. They not only found cigarettes and alcohol, they found jewellery, armaments, chicken, eggs, you name it. If it's totally controlled in this country and the prices of these commodities or these products in Canada are much higher than the prices in your nearest country, you will find an underground economy.

I would also like to add that I don't want to point the finger at restaurateurs and hoteliers. I said before, and it is quoted in this document from Owen Lippert of the Fraser Institute, that in excess of 56% of Canadians are cheating. Why should restaurateurs be different? I think they are a reflection of our society. People are saying, "We're overtaxed."

The Chair: One short, sharp question.

Mr Pouliot: Yes. So polygamy is having one husband too many, and monogamy the same.

Mr. Veilleux, you've partly answered my last question. It's a matter of price. In this case, taxes are a definition of the price, so it's commonsensical to address that. Economy of scale: A unit sells for \$100 a case. In the States, it sells for 30% less. In a dream world, there are no taxes. Does it change the problem? Which one do you buy? The only thing that is in question here is that you're smuggling it, but you're not smuggling it because of taxes. You make your case around taxes, but the case is to be made around the difference in prices; that's where the key is.

1450

Mr Veilleux: May I be allowed a short answer, Mr Chairman?

The Chair: Sure. Absolutely.

Mr Veilleux: You're right, Mr Pouliot, it's a matter of price. I would like to point out that the bottle of Canadian whisky that I referred to a bit earlier which cost \$20 at the LCBO—that's the shelf price—is all-inclusive of all taxes. There is \$17 worth of taxes, and \$3 is the manufacturer's price. On the street, you can go around Queen's Park and some streets north of here—I've tested the market, because I have to know what I'm talking about—the same bottle illegally sells for \$13.

So if tomorrow my members, members of my industry, decided to give away the product that they manufacture in this province, in Windsor and Corbyville and all these other good places, the price would go from \$20 to \$17. Now, we give it away. The underground economy is still at \$13. It won't make any bit of difference. The consumer will still go to the underground economy. This is serious. I don't know of a single product in this country capable of surviving under these conditions. So it is a matter of price. The consumer sees \$13, versus \$20 or \$17 if you give it away, and they'll buy it at \$13.

Mr Rollins: Thanks for your presentation. When you say Corbyville, that was my home-town address for a good long time, and you've seen fit to tear it down. We

must have collected a lot of taxes there over the years through the excise tax and everything else.

A fantastic amount of liquor—and that's basically what we're talking about—comes in across our borders by the hour, by the minute, however it comes in. Those people who are there tell us and tell people that I've talked to that they can pretty well detect the number of cars that are carrying it by the size of the car, the way it's loaded; many easy ways of telling that there's liquor in that car.

The way the system is set up, if they go to the point of trying to arrest that individual, and how many they can apprehend and how much liquor is dumped in the St Lawrence River running down towards Cornwall and all those good places down there that they catch every hour, they can't stop it all.

I don't believe, as an individual, that because something is being done that's wrong—I firmly objected to seeing the taxes reduced on the cigarettes so that Johnny's no longer stealing, because he doesn't need to steal because the taxes are too high. Johnny's still stealing, regardless of what it is.

I think that's where we come back to the point where we've got to close down our borders and make sure that the illegal product that's coming in is caught and more is apprehended. Those people on entrances to Canada at the borders—and that's where it mostly comes across; sure, lots of it comes across in boats and that, but most of it comes across in cars—if we stop and search those cars, they get caught. Maybe the penalty isn't high enough.

We cannot take the taxes off. It would be nice, as a government, for us to sit here and say, "Okay, fine, we'll remove the taxes." But then we want to put a tax on to snow machines and things that are used in northern Ontario to get back—

Mr Pouliot: Watch it.

Mr Rollins: See, right off the bat he said, "Watch it." We can't tax it back. So where do we tax?

The cost of that bottle of liquor that we sell—and I enjoy a drink; don't get me wrong that I don't, because I do. The costs that I, as an excess drinker, cause to our economy cost an awful lot, whether it goes in the health system or in the court system or wherever it goes through our system. Those are all parts and pieces that have to be looked after out of that 88%. I appreciate that the product that we're taxing is around 88%. It's pretty near as good to steal gasoline today as it is to steal liquor, because they're both getting to be about the same price. Do you think that we could cut down at our borders better and stop that illegal underground economy that way?

Mr Veilleux: I have spoken to all the police forces in this country, not only Ontario, in all the provinces. I personally went out there and looked. I have spoken to the RCMP, to customs and excise, and I'm in touch with, I have briefed all the ministers for the last five years at customs and excise. I know their people well. Everyone is pretty well admitting that you cannot close the border.

The reason is the following: The customs officers standing at the border know very well that most of the 2,000 or 3,000 semitrailers that cross a certain point on a certain day—and it's the same every day—have illegal products. If they stopped every single one of these trucks

and inspected them, they would do a fantastic job but the political impact of such a decision is not possible to accept. You would have trucks lined up from the Ontario border to the Mexican border. The oranges and apples would go bad—maybe that would be done for the local economy for a while—the spare parts that are needed for our industries in this province would not come across, and it goes on and on and on.

So the recommendations made in these reports and also by various police forces is that yes, you must increase penalties, you must make people aware that if they purchase something illegally, it's hurting them and it's hurting the economy and everyone in the province. But at the same time, they say that if anyone believes that you can eliminate the underground economy by doing only that, it will never occur. You need to balance the tax level because as long as you keep the incentive of a tax differential the way it is, people will use this tax differential to smuggle and make a lot of money. That's what has been occurring. At least, I'm basing my response on these three points.

Mr Rollins: I hear what you're saying, but I'm saying that because everybody does it, it becomes legal—I don't agree with you. But that's my opinion.

The Chair: Time for a short one, Mr Skarica.

Mr Skarica: Yes, quickly. Maybe you're not going far enough. You want all the taxes to be reduced to 8%, but that would still make taxes more here than in the United States. So you would have to reduce our taxes by half, correct? By 50%, 5% to 6%, then?

Mr Veilleux: It has to go down significantly, to a level where there's no incentive for the consumer to go buy it from the friendly taxi driver versus the LCBO. If the price is \$13 from the taxi driver, if you sell it at \$15 at the LCBO, our indications are that most people will reintegrate the legal system. It does not have to be equal, but it's got to be close enough.

Mr Skarica: Just because you lower the tax rate doesn't necessarily mean you're going to have a loss in revenue, because if you equalize to the States, you would bring the \$500 million into the real economy and out of the underground economy.

Mr Veilleux: This is right.

Mr Skarica: You wouldn't have the expenses of having to go after the illegal activity, you wouldn't have the organized crime impacts and so on and so forth, correct?

Mr Veilleux: These are very precise observations. That's exactly what most of the people we've consulted are telling us. This is why we believe that if you can recuperate 50% of the underground economy, you would break even, and we don't factor into that equation the fact that the policing costs go down, the custom costs go down. The hospital costs go down also, because people purchasing illegally don't know what they're purchasing. It could be anything. As a matter of fact, they don't know what they're purchasing, but what's worse than that, the smugglers don't care if you're 12 or 13 or 15. For \$5, if you're babysitting, they'll deliver, and that's scary.

The Chair: Mr Veilleux, thank you very much for your presentation. We appreciate your time.

FED UP

The Chair: The next presentation is being made on behalf of FED UP. Welcome to the committee, Mr Flynn. 1500

Mr Charlie Flynn: This is the first time I've appeared before a government committee of any type, so I apologize if I make any mistakes in form or content, but you're looking at a little frustrated businessman who would like to have a few words to say.

Mr Chairman, ladies and gentlemen, I am here as an individual, a taxpayer, as a tax collector, as a small businessman and, finally, as founder of an organization known as FED UP, which is predominately small business people and ordinary Canadians who feel alienated and disfranchised from this entire process. We are taxed beyond our ability to pay, with these two levels of taxation putting an onerous burden on small business. Please remember the words of Edmund Burke, "Bad laws are the worst kind of tyranny."

You have instituted these proceedings to identify and establish a basis to better facilitate the collection of money due this government from tax collectors, known as small businessmen, across Ontario. It is a frustration of this government, as pointed out by the Provincial Auditor, that there is a large tax gap, or in the vernacular tax fraud or cheating, through what Ms Swift of the CFIB calls the "informal economy," otherwise known as the underground economy. It is estimated by some sources at \$100 billion a year, and this, ladies and gentlemen, is beyond a mere statement of perceived unfairness. This is a full-staged revolt. In fact, since the money is not there to pay the level of taxes demanded, it could be considered a commonsense revolution.

It must be remembered that the entire premise of the auditor's report is based upon the conception that small business is somehow hoarding this money or reaping huge unreported profits. This is not the case. They simply do not have the funds to pay the amount demanded of them. Canadians have been forced to become criminals in their own land. It is a matter of survival.

If you'd like to know where this money has ended up, look no further than the business section of your local paper. As you starve and squeeze us with cutbacks and high levels of taxation, bank profits hit the stratosphere and breweries' profits are up over 100%. Wall Street soars while main street plummets. Do you think maybe in this case correlation is related to causation?

"Cheating" and "fraud" are strong words and just one generation ago would cause an individual or businessman to be castigated and looked upon with contempt by members of society. Due to repressive legislation, it has become the norm. The people simply have no other choice. Spend some of the money used to hire these extra auditors on a study. I would help to conduct it for free. Basically, you answer by intimidation, threat and repression, rather than seeking out the root cause. It is rather like the lord in the manor having the serf's hand cut off because he had taxed away all his grain and he had been caught concealing a bag to feed his family. Simply put, this is all we would like to be able to do: feed our families.

It is the federal and provincial politicians who have made fraud, cheating and lying a Canadian pastime. You have collectively turned Canadians into criminals in their own land. It is not because we are firebrand revolutionaries, it is just that we are taxed beyond our ability to pay, and most certainly this does not meet your criteria of fairness. Let's reflect on the alienation, cynicism and disfranchisement felt by the electorate towards the people occupying your offices. In most cases, they are either too alienated to speak out or too afraid of the consequences.

You feel you were elected to fulfil a mandate, clearly spelled out in your Common Sense Revolution. Well, simply put, I seek to appeal to your common sense, and yes, suggest a few steps that could be thought of as revolutionary, if adopted.

We are here today to comment on section 3.07 of the 1995 annual report of the Provincial Auditor, retail sales tax. In the preamble of the report on RST are the following two comments: "The branch's objective is to collect RST in a way that will encourage voluntary compliance...with the law and maintaining public confidence in the fairness of the tax system." These are lofty objectives.

A great man said: "People crushed by law have no hope but from power. If laws are their enemies, they will be the enemies to law."

Listen closely. We simply are taxed beyond our ability to pay. Like the feudal lord of old who demanded more grain, leaving the serf with nothing to feed his family, you are starving the engines of our economy of the fuel needed to drive them, stripping us of much-needed employment at the entry level. Small business does not rationalize and lay off just to please shareholders and have the Dow rocket to 6,000 on seven trillion shares. They reinvest their funds right back into the economy and create jobs.

I would invite Robert DeNiro's doctor from *Awakenings* to administer some of that el dopa to all levels of politicians in this land, and perhaps, like the pundits have reported as regards the unity issue, we could wake up the political élite to what they are doing to the small businesses today. It is an embarrassment that Prime Minister Jean Chrétien should have to beg multinationals on bended knee to create employment when we are standing here, ready, willing and able to comply.

Despite having no access to capital, being overburdened with taxation to fund a burgeoning and élitist bureaucracy and enduring the highest real interest rates in history, we survive and create over 85% of the new jobs in this country. What is our reward? In anger, one could say, some stuffed shirt bean counter decides we're not audited enough and a few more shekels can be squeezed from our drained coffers, and you immediately order up more bureaucrats, rather than ask yourselves, what's the real problem here?

What you have done through this regressive and reprehensible level of taxation aimed at this level of unorganized and optimistic investors in the Canadian dream is deplorable, and with such little true consideration and thought it could be considered a crime against the core segment of capitalism and indeed the root cause of most of our economic malaise throughout this great country and province. Why doesn't anybody in this

august chamber or the one down the road in Ottawa stop and realize what you are doing?

Let's follow this through. An entrepreneur, otherwise known as Mr O.N. Citizen—the O stands for optimistic and the N for naïve—of Ontario, investing in this province and its citizenry, decides to go into business. The banks, who unlike Jesse James don't wear a mask or carry a gun, are nevertheless robbing Canadians with their diehard motto of "Don't invest, collect interest." We now pay them over \$5 billion a year just on the federal debt. Oh, I know my pension fund is making millions. Maybe it will be able to pay me half of what I was promised I would get.

However, this backbone of Canada's entrepreneurs trudges off and convinces friends, family and his wife to beg, borrow and scrape together enough money for him to realize his lifelong dream of going into business for himself. He opens up his little café and submits his application to the government.

Well, it turns out the last guy never paid all his taxes, so in order to get a licence he will first have to sign a memorandum of understanding to pay the last guy's taxes over a period of time. If he does not pay them, they remove his licence. So he signs up and opens his business.

Now he pays heavy deposits to hydro and gas companies, which are monopolies protected by the same government. They exact a nice heavy toll for him to try and employ citizens of this province. If he makes his way through these hurdles, the municipal government knocks on his door and politely asks if they can have their business tax deposits. That's right: a deposit on future taxes, paid in advance for your right to do business.

He orders in his groceries, and these individuals, small businessmen, give him credit terms and take a chance on a new business coming into their area. Of course, they're not protected by any government-mandated monopoly.

Not one single individual from any government department of any level of government has shown up yet to say, "Hi, I'm from the government, and I'm here to help."

Now he wanders over to Brewer's Retail and puts in his order for product, paying a gallonage tax on his purchase, another little surprise. The brewery sells him beer at the same price as the consumer, no wholesale discount whatsoever. It is those same breweries whose stocks are hitting all-time highs along with their profits. You wonder where the taxes not being paid are going? The pie is only so big, you know. The consumer will only pay so much, and despite the retail price going down, the breweries just hiked their prices to the restaurateurs.

He's now fully stocked and ready to go. He hires a new immigrant willing to cook and clean for minimum wage, a student who has to work to make ends meet due to government cutbacks and a single mother on welfare trying to make ends meet, so two entry level employees and a welfare recipient.

The \$100,000 this individual has invested of his life savings and borrowed money will have a multiplier effect on the local economy of roughly 10 times, so he's created over \$1 million in additional economic activity in

this area. Unlike the large corporations or institutions, not one single cent of taxpayer money has gone to convince him to invest in Canada.

What goes wrong?

He gets his first month's revenues of \$40,000, a pretty good take. Now he pays 15% in occupancy cost, 40% in product cost, 25% in labour costs. He pays workers' compensation, a form of a tax, he pays business tax, he pays realty tax, he pays employers' health tax, he pays withholding taxes, including CPP, UIC etc. He asks his new accountant to plug all these numbers into his new computer to calculate the 7% of GST payable on most items sold and deduct his input tax credits and then calculate the 10% PST on liquor after first deducting the 7% GST, so as not to pay tax on tax, and then separate out the food and calculate the 8% on food, unless he's not supposed to on some items, then subtract his commission for collecting all of these taxes, and once all these calculations are done, he is left with a negative balance of \$1,328. Oh yeah, by the way, there's nothing left for him. He goes out and borrows additional money to pay all his bills. He could've taken it out of his contingency fund, but that went to the hydro and gas people, so now he's left a little more in debt.

Now smiling hesitatingly, he continues on, but realizing the whole time that once you add up the gallonage tax, the business tax, the employers' health tax, the UIC contribution, the CPP contribution, the provincial sales tax, the GST and the realty tax, he's going more in debt every month.

Now along comes the smiling salesman who whispers his name quickly and tells him he can make him more money on his business. He listens, because his kids are wearing out their clothes and his in-laws are starting to make noises about getting repaid. This guy can deliver liquor to his back door, no need to pick it up, at half the price. Of course it is contraband and somewhat illegal, but he's reminded of why all the other establishments are undercutting his prices. He declines. This salesman calls on most establishments more frequently than any representative from the LCBO.

Next, in comes a smiling ex-athlete, known as a beer rep. He points out that if he sold just a little more volume, then he could be entitled to cash kickbacks and extra promotion material. At his present level, he gets nothing. He just doesn't have enough volume. He's told that if his sales really climb, he and his wife could get that vacation they've always wanted to Florida courtesy of Molson's or Labatt's, and all under the table, no taxes or anything. He leaves him a \$50 bill to encourage him to switch to his brand and increase production.

He's amazed at these reps with huge budgets wandering around encouraging consumption, working short hours with nice benefits. Of course, they don't pay the gallonage tax or PST or GST either, and they still get 14 to 16 bucks profit on a hectolitre, as opposed to about 4 bucks right across the border. He discovers that during this recession their profits and stock prices are soaring, and so are their layoffs.

1510

It seems that Sir Bernard Shaw was correct when he said, "Any government that robs from Peter to pay Paul

can always count on the support of Paul." It seems Paul is very generous at election time. They used to pay FST of 18%. They also benefited nicely from NAFTA, allowing some economies of scale and rationalization—there's that word again. I know you'll tell me we're part of a global village now, it's just that none of these globe-trotters has found the village where my restaurant is located.

Are you getting the picture yet, where all those taxes you're trying to squeeze out of this economy are going? They're going in corporate profits and nice windfall, high real interest rates to the banks, the very entities that are not helping to grow the economy or create employment, just high stock prices and huge profits that one perverted bank president says belong to us. It seems, though, that we can't even borrow from ourselves.

Well, soon Mr Citizen gets the picture. He concentrates on quantity, not quality. Money talks, and this, he is told, is legal. Next thing you know, the liquor inspector wanders in and suggests he cut back on promoting consumption. So should he try to make enough to stay afloat or get some of those large kickbacks from the liquor and beer salesmen, they'll shut him down. It seems the government says: "Okay, guys, the last guy to the top of the rope goes bankrupt this month. Multinationals, your rope is on the left; bureaucrats, your rope is on the right; and small entrepreneurs, you have no rope. Good luck."

So now he won't have enough to send in his PST. But a lot of bar owners have two sets of books, and if he just slices a bit off what he owes, he can make it. So he claims 85% of his sales.

Finally, after 18 months in business without receiving one paycheque, the inspector cites him for encouraging consumption and overcrowding, so he cuts back on sales.

Now he has no money to send to PST this month. He skips the payment. He's called by a retail sales tax bureaucrat who has been assigned to ensure voluntary compliance. He is berated and commanded to pay these trust funds immediately. This bureaucrat is collectively receiving almost 20 million bucks a year from taxpayers, divided among 295 workers who produce nothing and invest nothing in this province. If the provincial government were to farm this lucrative contract out to citizens of this province, a lot more could be accomplished with a lot less. Yet these guys think they are still not getting enough. Perhaps rather than feigning their outrage at one who is not giving enough, they could reflect on the ones who are taking too much.

Once these 9-to-5 workers are awakened to a possible voluntary non-compliance, he quickly receives a letter demanding an audit and in they march, all smelling of the same cologne and rumpled old suits, sitting down at his desk, using his chairs and his electricity to occupy his office and his staff in order to discover if he has cheated the system. Like an invading army, they order employees in this direction and that, demanding immediate results to every little whim in search of those elusive funds per audit hour to justify their position. They have papers flying, calculators whirring, computers buzzing and copiers churning. They mean business, and all the time his business, already on the brink, is being pushed over the edge at a time he can least afford it.

The bureaucrats see red if it is discovered any of these trust funds have been used to pay another small businessman or employees, or even endeavoured to pay rent and keep his doors open. Couldn't one of these have gone without to ensure RST was paid? Then luckily the 5 o'clock whistle blows and Mr 9-to-5 quickly folds up his computer and shuffles off.

Next, in come the GST boys for their audit for three weeks of audits, taking up valuable staff time and effort in providing all the necessary documentation, with rumours swirling around the business, driving off what little he had left.

Now he knows exactly how much he can't afford to pay. He tells how he expected business to be better and the auditor merely comments, "A good businessman should forecast accurately." He doesn't explain how the government, with hundreds of econometric models and its employees computing away for eight hours a day, can be so wrong with their budgetary shortfalls. They let him know they are contemplating charges for misappropriation of trust funds. So this is his reward for trying to invest instead of collect interest. I guess the banks were right. Then they compute out that their additional tax assessed per audit hour is an astounding \$975. Everyone is happy. We can justify more auditors with these kinds of results, and lock a whole pile more entrepreneurs up.

He recalls the guy who kept begging him to buy his contraband booze and dreams of all the taxes and hassles he would have saved. It turns out that any spillage he experienced over and above 5% he pays taxes on and all the theft he discovered by dishonest employees he pays taxes on. Nevertheless he was honest and bought every drop of booze at government prices through government outlets. Now these government employees, these tax collectors, with all their great benefits, are calling him a crook for not performing as an unpaid tax collector, with no pay and no benefits.

He loses his house, his business and goes bankrupt, and finally a government employee shows up to help: social assistance and legal aid. They get him an apartment, some food and give him a placard to march downtown to demand more, because he is truly one of society's underprivileged and deserves to receive compensation for being left out of its success stories. Finally, I guess he's getting paid for all that work as a tax collector.

Mr Colle: Social assistance has been cut off. Legal aid's been cut off too.

Mr Flynn: Well, it hasn't been cut off, it's been reduced.

Mr Pouliot: This isn't your story, is it?

Mr Flynn: It's close enough. It's very, very close enough.

Is this what you want? Every single item mentioned could be a personal experience and absolutely and undeniably true. Suffice it to say that once I, as a citizen of Ontario and Canada, pushed aside my cynicism and alienation from the process and took it upon myself to speak out about the inequities and overburdening taxation system, that is when I felt the real wrath of the civil servants. I'd dared to threaten their security and future employment benefits.

It is imperative you understand that this onerous burden of taxation, which we can't afford to pay, has created an injustice. Most small business men don't want to come forward out of fear of retaliation. So this legislation is used to threaten, intimidate and extort, if nothing else, such as money, then silence. Do you understand these small business men are honest, hard-working, optimistic individuals whose only crime was to believe and invest in this province and country? They do not march on picket lines or inundate you with complaints. They simply try to survive, and struggle as silently and alone as much as possible, in most cases afraid of being noticed.

When I mentioned during my GST protest that most small business men are lying and cheating or going broke, it was acknowledged by all of their associations, by bureaucrats and by politicians, but I was beseeched not to mention it. In your haste to ensure our multinational corporations could compete on the global stage, along with our banks, you left someone out of the equation—the guy you want to collect all this tax from. Now, as stated, as Wall Street shines on the backs of laid-off workers, slow growth and low inflation, Main Street is full of potholes and in desperate need of repairs to ensure it stays afloat. However, you don't have to worry about us competing on the international stage or dragging down the stock market. We'll just shut up the doors, turn off the lights and send everyone home.

I've spent an enormous amount of money keeping my businesses going without ever receiving one single cent of remuneration or return on investment. Since I complained, I've been talked to, talked about, lied to, lied about, harassed, intimidated, threatened, cajoled, deceived and misled. I've had confidential information on my file distributed by civil servants. I've had my liquor licence revoked due to a lost renewal notice, not for any infraction of any regulation; I've never had one. My files have flown around government offices faster than a copy of *On the Take* around a Liberal Party picnic.

You must realize we are not taxed to the limit but beyond our ability to pay. You must address this immediately and resolutely. It is those headlines of huge bank profits that have robbed us of any fair hearing before a bank officer for a loan. It is those headlines of high real interest rates that have siphoned off investment capital. It is those headlines of high unemployment and welfare, with low inflation, that have robbed our customers of the disposable income to ensure a robust economy. It is those 100% jumps in breweries' profits, enabling them to hire athletes to encourage consumption, that have robbed us of our margins to pay the level of taxation you require. It is the unfair and disproportionate share of the tax burden heaped upon small business operators that rob us of our ability to create employment.

Let's read again your directive, "The branch's objective is to collect RST in a way that will encourage voluntary compliance with the law and maintaining public confidence in the fairness of the tax system." May I ask, is this the real objective? If it is, let us immediately ask the branch how they maintain public confidence in the fairness of the system, which is so inherently unfair. Do they research the huge profits reaped by breweries off the

backs of small operators? Do they ensure that contraband is not available to competitors? Do they ensure in any way that there is enough of the pie left for the small operator to pay the amount required of him? How do they encourage voluntary compliance by shutting up guys like Charlie Flynn rather than listening to his commonsense solution to correct this imbalance?

Let me suggest:

Freeze the hiring of any additional civil servants. It is unnecessary. If it is collection and squeezing every available cent out of business you want, then contract it out to private firms with specific instructions and powers. You would pay only on performance or on funds collected. If you want to squeeze more out of those who must give, then give less to those who want to squeeze more.

Allow for the retail sales tax branch to research the size of the pie—ie, total revenue from the sale of beer, wine and liquor and other products in this province—and identify where the profit is flowing. Certainly by ascertaining the flow of funds from the sale of these products, the branch could fulfil its objective in ensuring that voluntary compliance is, at the least, possible.

Immediately implement a task force made up of small business people to implement a fair system within everyone's ability to pay, and make any cheating of the system subject to very stringent, onerous penalties.

It is totally without rationale or logic to assume one can pay more than he has in taxes. You must realize the pie is only so big, and when the pot is empty, your requirements to collect more are frivolous. Do you not understand small businesses are not keeping more to show encouraging profits to Wall Street, they are surviving to try and stall the foreclosure on Main Street? As it is said, you cannot get blood from a rock. Stop trying.

1520

The absolutely easiest and most commonsense solution is to collect PST at source on alcohol, once you've ascertained what is a reasonable division of the revenue, and provide for zero tolerance for anyone involved with contraband product. In plain English, one strike and you're out. You simply charge the PST on the prior shipment before any new product is shipped at both the LCBO and Brewers Retail. End of problem in our industry, which I am told accounts for over 40% of all collection problems. Nova Scotia has implemented a similar policy to deal with contraband cigarettes.

Breweries encourage consumption. Just like the casino bosses rate you according to the stakes you bet, they judge you on the volume you sell and compensate only those at the top end of the scale. All one has to do, without the cost of any lengthy studies, is look at the budgets for promotion used to push consumption on the consumer and volume on the licensee, the exact contradiction of the government's intention. Take a look at the breakdown in total revenue today. I'm sure Mr Labatt and Mr Molson are saying, "Shush, don't tell them."

In short, you ensure, through your study of revenue flow, fairness in the system. Any deals whatsoever in the informal or underground economy market are dealt with severely, as stated, on a "one strike and you're out" basis, or zero tolerance.

You must ensure voluntary compliance in the case of alcohol by taxation at source to ensure a level playing field. You must ensure fairness. It is incumbent upon the government to ensure compliance is not only complete but, at the least, possible and fair. I recognize that Mr Beaubien did suggest a potential core problem exists and I commend him, but I do not think even he realized the extent of that core problem.

John Kenneth Galbraith said, "Nothing is so admirable in politics as a short memory." It is a shame if you should forget that lesson learned by Mr Rae: Electors have a long memory; it is politicians who have the short one. You promised change, you promised common sense. Well, we need change and we need common sense.

In this case, correlation of GST and PST is certainly related to causation—less compliance.

I beseech you in your capacity as legislators, as parliamentarians, as leaders, as individuals, as citizens of this province. You are in a position to enact change, to right a wrong, to eliminate injustice and to allow employment investment to begin to grow tomorrow. We've lost over 40,000 jobs in our industry since this inequity began. We are entry-level employers. Certainly, as you can see from the downsizing, those windfalls accorded the large corporations are not going into employment or reinvestment in this province or country as they shut down plant after plant. Small business creates 85% of new jobs in this province. They are investors with no demands, trudging on though government red tape and bureaucracy with an overburdening tax load and no source of investment capital, with little complaint. You need only to stoke the engines of business by reallocating this tax burden and its administration to a survival level and the results will be immediate. The new immigrant, the student and the single mother will cease to be a burden on the state, with all the resulting savings, and remain gainfully employed. Let us do our jobs with no grants, subsidies or handouts; just a fair shake.

The decision is yours, but the unemployed, the small business men wait for you to do the right thing, and it's not hiring more bureaucrats in an overregulated and overgoverned province; it is to loose the strings on free enterprise.

In short, ladies and gentlemen, stop looking for that basket of grain the serf has hidden to feed his family and start allowing him one or two baskets to grow his business to allow for larger harvests creating more employment, resulting in less strain on the resources of the lord and his manor; in other words, the public purse. It is what you are sent here to do. It is common sense, and using it would certainly be revolutionary. As Edmund Burke stated, "Make the revolution the parent of settlement and not the nursery of future revolutions."

Sorry if it was long, but I had a lot to say.

Mr Pouliot: Thank you very kindly. FED UP stands for Fellow Entrepreneurs Determined to Upset Parliamentarians

Mr Flynn: Yes, that's correct. That was coined during my GST protest last January.

Mr Pouliot: I'm an avid reader, sir, and if I don't recognize the person, certainly I'm familiar with the tone. I see some association. The title fits the presentation. I

see it as being upsetting, but not as being vitriolic. You walk the walk, so you go beyond the words. Then you come up with recommendations, which is most appreciated because we listen to what we feel is wrong. You develop a theme, a certain methodology, and then you always anxiously look for its conclusion. Then you try to it blend it with what has been said in the preamble.

When all is said and done, at the end of the day, as I listen, it takes on extraordinary proportions. But I kept in mind, how much money will it generate? Are you aware of how much money small businesses paid, not through their employees—they pay taxes too, they're consumers as well, of course—but themselves? What is the percentage of what the government takes? You see, the provincial government takes in about \$46 billion per year. It spends \$9.5 billion or \$9.6 billion more. That's the challenge, that's the deficit; and with the tax break promised by these people sitting there—because they're on the hook to an election promise that you talk about—to the tune of an additional \$5 billion or \$6 billion. So when you talk about—well, I don't say upheaval—upset, you have to reconcile in a period of one term of office, and there's four years left to do, some \$15 billion. That's one big task.

All businesses pay less than 10% in taxes. The taxes are paid by the consumers, the taxes are paid by—

Mr Flynn: That sounds nice on paper, but we both know it's just not factual.

Mr Pouliot: Okay, thank you. I see you have a student there, a cook, a sous-chef; a cleaner also. You took the person off the street. No doubt that person speaks five languages—

Mr Flynn: Sometimes.

Mr Pouliot: —and maybe he's a soupier, he's a charcutier, he's a chef. I don't want to eat there because you're paying him the minimum wage. What is your opinion on the minimum wage, sir? Do you think it's a deterrent? Do you think it's too high?

Mr Flynn: Basically, on the minimum wage, if you want an answer on that, nobody abides by it, because every restaurateur in this province, or most of them, pays a salary per week to reduce the level of hours worked below the minimum wage. So it doesn't get across the government's intended purpose. All it does, unfortunately, is limit employment possibilities for people.

Mr Pouliot: So another example of people bypassing the system because the laws are bad.

Mr Flynn: There's only so much of a pie to go round. You can't squeeze blood out of a rock. You cannot ask an entrepreneur to spend more than he takes in; it's impossible. He's going to look for ways to survive. By nature, an entrepreneur is a survivor. He looks for ways. It was created in the halls of this building and in Ottawa; it was not created in some little restaurant.

Mr Boushy: Just one brief question: On page 1 you said the underground economy is estimated to be \$100 billion a year. Can you tell me the source of information?

Mr Flynn: It would be many and varied, but mostly those figures were quoted to me through the media and through figures dragged out by Stats Canada during my protest last January.

Mr Boushy: Is this for Canada or for Ontario you're talking about?

Mr Flynn: Canada.

Mr Skarica: If I can paraphrase, what you're basically saying is that for a small business to survive and create jobs, you need less taxes and less paperwork.

Mr Flynn: In a nutshell, if you want them to survive and grow. Right now you're sitting here asking them why they aren't paying the level of taxation, thinking somehow they're hiding it somewhere. What you don't realize, or maybe you haven't realized, is that they don't have it. You've simply taken everything they've got, and what they're doing is borrowing or stealing from somewhere else to try and stay in business. You'd rather put the other small business man out of business by him not paying him and paying the coffers of the government or not paying the employees. It's a very limited choice the man's faced with. He's not like the multinational corporations or the banks. Take a look at his balance sheet in the last four years as opposed to theirs. You'll see a huge transfer of income.

Mr Colle: Thank you, Mr Flynn. I think you really are reflecting a growing frustration that goes beyond the normal tax revolt, because I think the thing that really hits home is this: Wall Street or Bay Street has got record profits, yet there are record layoffs on Main Street and record bankruptcies on Main Street, because no matter what government does, unless it shows that it's dealing with the big banks and the big corporations and monitoring and making them pay their fair share, I don't think we're ever going to get the cooperation of the small business person. I think that's one of the things I see which is something we as a committee are going to have to deal with. We can't be seen as picking on the small restaurant owner. We've got to be seen also trying to help him or her, but making sure that the big people at the top are paying their fair share and not getting a free ride.

The one thing I think you're in agreement with the grocers on is that you think it might be helpful to have the retail sales tax on alcohol, for instance, go to the wholesale level in the LCBO or the Brewers Retail. You think that might be one of the constructive things we should look at.

Mr Flynn: Absolutely, and can I just tell you why? What happens in this province is you have people churning over their licences. They'll come in for six months, keep all the PST and GST, and then go out of business, then open up down the road, all over the place, because you can get into any place nowadays for just about nothing. So what you're doing is you're allowing those people to go in and compete with the honest guy who's paying his PST and GST and drive him out of business. So if you collected at source, you'd stop that; everybody will have to pay it at source.

I would like the penalties to be stringent and onerous and unforgiving when it comes to contraband. You know what you do now? You give a 30-day suspension of a licence. That's like a cost of doing business. If a guy's caught selling contraband alcohol, he should be jailed or he should be forbidden from ever selling alcohol or being a licensee in this province again. It's a very serious crime and they should be faced with serious penalties, not a 30-day suspension.

1530

Mr Colle: So you're saying it's almost becoming impossible, given the economic climate, with the consumers unable to go out as often as they could; and on top of that you've got the competition with the people selling contraband and the lure of that; and then with the heavy tax burden, there's something deeply wrong with the way things are operating in small business in Ontario, like restaurants or the ones that sell alcohol.

Mr Flynn: Absolutely—enough to drive you crazy, enough to make the words "common sense" fly out the window.

The Chair: Thank you very much.

TCMJ AUDITING SERVICES

The Chair: The final presentation today is to be made by Mr Thomas Finch. Welcome to the committee. You have provided us with a written presentation?

Mr Thomas Finch: Yes. The proposal the clerk's handing out has been already submitted to the Minister of Finance. It's based on the Provincial Auditor's report. I felt you might like the additional information if you had any questions about it.

Mr Finch: I'm Thomas Finch, president of TCMJ Auditing Service Inc, and this is my business associate, Carol Hoffman.

In the auditor's report, he makes some notes, especially on page 106, in section 3.07, on where the gap problems are. He mentions the unregistered vendors who sell taxable items but never remit the collected tax to the ministry, or vendors who do not even charge tax on the sale of taxable items. He also mentions the registered vendors who deliberately under-remit tax collected. On page 108 of his report, his recommendation is to identify the non-registrants, as well as vendors who under-remit.

I realize at this point in time, with the economic circumstances of the province, it's not feasible to employ a lot of auditors to make 100% coverage of all small businesses. What I have proposed is to contract it out. It would be quite a significant savings for the province by going with contract, about \$3.9 million a year for Ontario in wage savings alone.

I propose the qualifications of the auditors be the same as basically retail sales tax now, minimum level 3 certified general accountant or certified management accountant. I've also recommended to the minister in this proposal that training and new methods be passed on to the contractor as soon as they've done their employees.

The area in the proposal is the city of Burlington, the Hamilton-Wentworth region and Niagara region. This area works out to approximately one tenth of the business population of Ontario. I chose this as a model because you could then multiply if you wanted to see what 50% would be like, or 75%; you could work from a base figure. All my statistics come from Statistics Canada, the Fraser Institute's report on the underground economy, and the Vernon's business directory of the region I chose.

I'm a little unorganized. I had 24 hours, so I do apologize for it right up front.

The report put out by the Fraser Institute says approximately 10% to 15% of businesses are underground. When

you work that out to the area I've projected, and take an average of 12.5%, Ontario is losing approximately \$14 million in taxes from all small businesses.

It would take approximately 13 auditors to cover that area at a cost of \$970,000, and that includes wages, facilities to house them in, equipment, supplies. Tax generated from that area alone would work out to approximately \$3.3 million a year. As I say, I used it as 10% of the Ontario business population, so you can multiply; if you wanted to find out what 100% would be, it would be \$33 million.

The revenue would be gained two ways. We would go in and do an audit to see if they had a vendor's permit to start with, see what their sales were, see if the proper amount of taxes were collected and remitted. Any problem areas found while doing that would be automatically handed over to a provincial auditor, and they could do a more in-depth review of the file.

I propose taking the current 31 hours per audit that the provincial auditors do down to a four-hour compliance audit. I could do two a day, basically, where they're doing maybe one every three and a half days. I would be able to get more done that way.

If I haven't lost you on my jumping around—I do apologize—to solve the problem of the tax gap, the province is going to have to hire more auditors, because people can only do so much a year with the resources you have.

The big complaint I've heard is businessmen saying: "I'm paying my taxes. Joe down the street isn't. He's never seen an auditor in 10 years. What's going on? I've had one every four years." It's basically pick of the draw, I believe, and that's why I figured I'd put this proposal in, to say you need this many auditors to actually do it properly and this is the cost.

Mr Stewart: You say the audit you would do would be a four-hour one, in comparison to the government doing 31 hours. I have no problems with that, but what concerns me is that you suggest that if there are things you're concerned about, the government would go in and do it again. I have difficulty with that type of duplication. If it were to go into the private sector, which is what you're suggesting, why would you not do it completely?

Ms Carol Hoffman: To get the coverage the Provincial Auditor has indicated he would like, it would be a basic compliance audit where basic areas are covered, with an eye to other areas that may be more complicated: interpretation of legislation, that sort of thing. That area would be referred back to provincial employees to cover that off. It's basically to get out and get the coverage, and if anything else is indicated during that time, it would be covered off on a more in-depth basis.

1540

Mr Stewart: So we pay you X amount of dollars, and I'm looking in here and there's a good saving; I appreciate that. But if the government's got to go back in and do additional investigation on its own, are we not getting up near what it costs us now? My concern is duplication. If we're going to do it, do it right and do it once, without spending a whole bunch more on an additional process the government's going to have to do anyway.

Mr Finch: It would be more than just us handing a piece of paper to the Ministry of Finance saying:

"There's a problem. Go forward." We would lay out the basic groundwork we have done. They would have a copy of the financial statements already in their hands, which would cut out a lot of the desk time the auditors would need to track this down. Basically, we're trying to make the actual auditors more efficient and streamlined. They'd go in where there are definite problems, but they wouldn't have to start all over again. They'd continue from where we left off. They would have the financial records up to that point, and they wouldn't have to redo that again.

Mr Stewart: To go a bit further, you're saying it takes them 31 hours now to do a complete one. I know it's difficult because you don't know the amount of investigation they may have to do, but what do you see under normal circumstances as the number of hours the province would have to spend to do an additional audit or investigation? I go back to what I said. It's going to cost us so many dollars for you folks. How many dollars more is it going to cost us to complete it? Do you have that in your study, by any chance?

Mr Finch: It's hard to say because when you get looking at businesses, they're different and complex. We could go in and do one maybe at 31 hours and come out with an assessment. Then again, I may go to his next-door neighbour and be in there for 300 hours. That's the problem when you try and average something like that, because you really don't know what you're going to find when you get inside.

I've heard a couple of people mention bars selling illegal liquor. For example, if we go in and find something like that, it's definitely going to take us a lot longer, and then we'll have to notify the appropriate agencies: "We found this problem. Maybe you would like to look at it. It'd be beneficial." That's going to take longer. It's hard to judge, because I can't tell—

Mr Stewart: I'm just concerned about the duplication aspect. That's where I'm coming from.

Ms Hoffman: There wouldn't be too much duplication in the area already covered because the Provincial Auditor would be aware of it. The saving to the government, still in the Ministry of Finance, would be to help select audits so the Provincial Auditor is doing revenue-generating audits 100% of the time rather than going on a hit-and-miss basis or whatever the method of selection current is. They would know before they went out that in a certain area there may be a problem.

Mr Colle: I guess the presentation's a way of looking at how we deal with the auditing function of our department here and how the government does the auditing. The suggestion you're making is that perhaps there should be some private sector involvement, that the government could save money. As opposed to hiring people in-house as civil servants, you're saying this kind of activity could be up for bid for entrepreneurs, people in the private sector to do this function who wouldn't have the overhead the government would have etc. You would essentially ensure that the auditor's initiatives would be done more effectively and efficiently, cheaper, and maybe in a different way by auditors in the private sector. Is that it, essentially?

Ms Hoffman: I think that basically sums it up.

Mr Colle: The saving would basically come from the shaping of the audit process that you'd do a bit differently, and second, you'd be able to get out there at a lower per-case cost than the government, it seems.

Mr Finch: Yes.

Mr Colle: Are you aware of the fact that if anything like that were initiated by the Ministry of Finance, it would probably have to go to some kind of public process where other private sector auditors or whatever it is would have an opportunity to bring forth their bid on this type of work, if that were the decision of the auditor.

Mr Finch: We're fully aware of that. By no means do I expect: "Here. It's good. It's yours. Go." It is public government and stuff like this. I'm a strong believer that it should go out to the public and should be open to the general public of this province.

Mr Colle: As you said in the beginning, it seems there's no way the auditor can avoid bringing about some of the tightening of the tax gap without bringing on more resources or more auditors out in the field.

Mr Finch: Basically, yes. I went out into the business community in the Niagara region and talked to a lot of them, and they hadn't seen an auditor in 10, 12 years. They said, "They don't come out here, and we never do see them." I'm not sure about the process of how they select their businesses to audit, whether they get complaints or whether they just pull a number out of the hat and say, "It's your turn this week," but that's what I've heard. There are places that have not been audited in over 10 years. They just don't show up.

Mr Pouliot: Thank you very kindly. I listened, with my colleagues, with interest. It's like a breath of fresh air. I think you're nice people. I do wonder, when I look at the letter to Mr Doyle—he's your MPP?

Mr Finch: I know Mr Doyle personally from when he used to work for channel 11 in Hamilton. He's Hamilton East and I live on Hamilton Mountain.

Mr Pouliot: Okay. I look at this, and there's the prelude which is not unusual, the information contained within etc. Candidly, just for one second I reminded myself of the protocol of what the committee does, and then I said, "Why not have you two on the list, paying us the compliment of your expertise with a proposal"? You're right. If only the world was this easy, that you could come here and we'd say, "These people are fine and they come highly recommended. Here, go and do what obviously we are not totally able to do," so that the taxpayers get the return, get the money that's out there. Protocol will not let us do that as a committee. The Chair was to indicate that to you, I'm convinced.

Tell me a little, in a broadly summarized form, please, what is your experience? What kind of work do you do? What kind of client group do you serve?

Mr Finch: I'm a retired ambulance officer out on WCB with a back injury. I was in management positions for a good 12 years of that. I have worked with budgets before; I have worked out in the public, obviously. Presently, I'm enrolled in the Niagara College business administration program, taking operations management.

Ms Hoffman: I've got a bachelor of commerce from McMaster University and I've been working in the accounting profession in various capacities for the last 12 years.

The Chair: Thank you very much for appearing before the committee today and sharing some insight with us.

Mr Finch: Thank you for having us.

1550

The Chair: Committee members, there are a couple of items of business we should consider preliminary to next Thursday's meeting. Thursday has been set aside for consideration of a report to the House on the issue we've just been discussing, retail sales tax. We're looking for a couple of things. Are committee members satisfied that we no longer need to hear from any other presenters or witnesses, or did you feel we might have ministry staff back to follow up on anything we've learned during the course of the hearings? Should we proceed directly to consideration of the report?

Mr Colle: My only question of ministry staff, in terms of the suggestion made here today of going from the retail collection of provincial sales tax to bumping up to the wholesale area, is what implications that would have for the ministry. To me it sounds like an interesting proposal; I know it's within the Nova Scotia context. I wonder whether the Ministry of Finance has addressed that, the pitfalls of that. It sounds reasonable at first blush, but if we ask ministry staff, we might get a wholly different view of it and the problems with it. We could maybe get them to comment in writing on it. I don't know how to approach that.

The Chair: I'm in the committee members' hands. We could ask for a written submission or we could have them attend first thing Thursday morning.

Mr Pouliot: The government shall see fit, and that's great. The revenues are such that I can't help but part with Mr Colle. Our estimate was about \$450 million to \$500 million, so it's one heck of a lot of money. But I can't help you because I don't remember the snag, why the obvious was not done when we were at cabinet. Why didn't they say, "We'll go up one notch and we'll go right after the wholesale and then we'll get the money"? I'd like to have somebody from Finance come up. I know I would benefit to be reminded: "It sounds good, but this is the reason we can or cannot do it."

Mr Rollins: Once again, in the gasoline business, it's collected strictly by the wholesaler. It has been from conception; it's always been. You can't buy and sell a gallon of gasoline you haven't paid tax on. I can't buy it as a wholesaler unless I'm a distributor. There are always wholesalers. All those wholesalers who supply across to every place provide sales tax too. You will still have to charge the sales tax on the addition of sale. The product costs you this much here. As the gasoline cost is 50 cents a litre, I pay the tax on it. It's already paid. I sell it at 54 cents a litre. I have to pay the sales tax between the 54 cents, that difference, and that's the addition. They have to pay tax on other parts anyway, and it's the same with the alcohol. But you'd still stop that loss of the guy going in and out of business down the road.

Mr Pouliot: Quebec didn't do it either. They're in the same boat.

Mr Rollins: It's interesting. You should have those answers from those other people too.

The Chair: Then why don't we, if committee members agree, make an effort to have someone from the

ministry attend on Thursday morning so we can review this. All right.

The other matter, if there are no other recommendations with respect to further information we might need, is that our researcher is looking for a bit of guidance in terms of the preparation of a draft report for our consideration. Maybe, Ms Campbell, you can tell us what you had in mind and then we can comment.

Ms Elaine Campbell: The Chair and I had a brief discussion last week as to what the committee's expectation was for my contribution next Thursday. After we discussed it for a while, it was decided that I would put together a framework for the report. My experience on previous committees has been to prepare a very basic outline at the first discussion of a report, and then prepare a draft report and bring that back to the committee, then make any alterations the committee deems necessary and come back with the final report.

The Chair suggested that rather than having just a sketchy outline, have something with a little more substance to it. I have prepared a proposed framework which is basically a paper with the presentations I've already made to committee plus a summary of what the ministry has presented to the committee. I'm also including a number of questions I would like some assistance on. I'm hoping to have the document ready for distribution on Monday so that the members will have an

opportunity to look at it before the framework is discussed on Thursday.

The Chair: When I reviewed this with Ms Campbell, one of the objectives we thought would be important is to come up with something that prompts us into raising the right kinds of questions so we're not going to miss anything in terms of preparing the report. You're going to have a summary of recommendations in there, right?

Ms Campbell: What I thought I would do as a complement to the framework is prepare a summary of recommendations made by the various witnesses, and that might prompt the members to come up with some additional things they would like added to the draft report. That will be ready on Monday as well.

Mr Colle: I think that's a good starting point. It's a really good overview of what was recommended to us, and then get down to bringing it down to things that seem reasonable.

The Chair: My experience in the past is that whenever we show up without some kind of predetermined format in front of us, we're grasping in terms of where to proceed. I think this will be helpful in terms of concentrating the mind.

If there's nothing further, the committee stands adjourned until Monday morning.

The committee adjourned at 1556.

CONTENTS

Thursday 29 February 1996

1995 annual report, Provincial Auditor	P-151
Retail sales tax: Ontario Restaurant Association	P-151
Paul Oliver, president	
Rachelle Wood, director, public affairs	
Ontario Board of Parole: Criminal Injuries Compensation Board	P-155
Chisanga Puta-Chekwe, chair	
Retail sales tax: Noel Rebick	P-159
Audit Act amendments: Office of the Information and Privacy Commissioner	P-162
Tom Wright, commissioner	
Ann Cavoukian, assistant commissioner (privacy)	
Retail sales tax: Canadian Council of Grocery Distributors	P-167
Max Roytenberg, vice-president	
Arlene Lannon, Ontario director	
Association of Canadian Distillers	P-170
Ronald Veilleux	
FED UP	P-175
Charlie Flynn, founder	
TCMJ Auditing Service	P-180
Thomas Finch, president	
Carol Hoffman, associate	

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cleary, John C. (Cornwall L) for Mr Crozier
Stewart, Gary R. (Peterborough PC) for Mr Fox
Rollins, E.J. Douglas (Quinte PC) for Mr Gilchrist

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

A20N
XC21
-P72

Government
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P-11

P-11

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Official Report of Debates (Hansard)

Monday 4 March 1996

Journal des débats (Hansard)

Lundi 4 mars 1996

**Standing committee on
public accounts**

1995 Annual Report,
Provincial Auditor

Ontario Board of Parole

Audit Act amendments

**Comité permanent des
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Rapport annuel 1995
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Monday 4 March 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Lundi 4 mars 1996

The committee met at 1102 in room 151.

1995 ANNUAL REPORT, PROVINCIAL AUDITOR

The Chair (Mr Dalton McGuinty): Good morning, committee members, and welcome to our continuing hearings on the matter of section 3.18 of the 1995 annual report of the Provincial Auditor, more specifically, dealing with the Ontario Board of Parole.

We're going to be doing something we were doing last week. We're going to be shifting from topic to topic today. We're going to begin with that particular topic for our first presentation, and then subsequently we're going to be dealing with amendments to the Audit Act.

ONTARIO BOARD OF PAROLE
COUNCIL OF ELIZABETH FRY
SOCIETIES OF ONTARIO

The Chair: Our first presenter this morning is here on behalf of the Council of Elizabeth Fry Societies of Ontario. Good morning. Welcome to the committee. I gather it's Ms Elizabeth Forestell?

Ms Elizabeth Forestell: Yes, I'm Elizabeth Forestell and I'm the executive director of the Council of Elizabeth Fry Societies of Ontario.

The Chair: We have allowed, Ms Forestell, just so you are aware, a half-hour for your presentation. Committee members would appreciate it if you would provide us with an opportunity during that period, if at all possible, to ask questions.

Ms Forestell: I'm a fast talker.

The Chair: Great. Thank you.

Ms Forestell: Just to give you a little background, the Council of Elizabeth Fry Societies of Ontario represents eight Elizabeth Fry Societies in the province. These agencies have been working with and for women in the criminal justice system, in some cases for as long as 50 years, providing services both in the community and in federal and provincial prisons and correctional institutes.

Services include after-care programs, residential programs, addictions recovery, sexual abuse counselling, anger management, parenting, employment training and counselling, court work programs, bail supervision and parole supervision, and I've probably left out a good number. At both the provincial and local levels, we also offer expertise in consultative services to government in the areas of program and policy development.

We've been recognized nationally as a voice of authority on issues pertaining to treatment of women by the criminal justice system and the causes of women's crime. One example is that council was highly instrumental in

the work, with the government of Ontario, of the women's issues task force, a study of provincially incarcerated women, the report of which was released in 1994. In Ontario and in fact across Canada, Elizabeth Fry Societies are the only organization with the specific mandate to provide programs and services to women in conflict with the law.

Today, we come to talk to you about the idea of parole, and I'll put my comments in context for you by mentioning some of the core beliefs on which they're based. First of all, we need to remember that we are talking about people who have been sentenced by the courts to serve incarceration periods of less than two years. Whether these sentences reflect mistakes or too many breaks in the court system is not something we can deal with here. The important point is that we are dealing with people who are coming back into the community within 16 months at the most. We acknowledge that the crimes for which the sentences are imposed may be of varying seriousness, though we know that for women they are most often property crimes such as theft under \$1,000. Many of the women that we see in provincial institutions are there for shoplifting or small drug crimes. These are the people who will return to our communities soon.

Second, we believe that although there are without doubt some people who must be separated from society in order to protect the community, these are a small percentage of our institutional population and that in Canada and in Ontario we tend to overincarcerate, particularly with regard to non-violent offenders.

Third, we believe a more appropriate response to crime is to look at the underlying causes, be they systemic or individual, and that the effect of crime is to create a disturbance in the whole community. It makes sense, then, to address those underlying causes of crime and to assist the individual in reconciling with and functioning responsibly within the community and to invite the community to participate in that process of reconciliation. With regard specifically to women, we believe children and family are essential to the healing and reconciliation process and that the longer a woman is kept from her children the more difficult it is likely to be for her to reintegrate successfully.

Finally, we believe that incarceration is not an effective deterrent to crime, nor does it provide an adequate environment or opportunities for rehabilitation. In our incarceration zeal, we respond not to real need but to a clamour for retribution from a community whose only allowable participation in the criminal justice system is to bid for harsher sentencing rather than to contribute to the development of creative and meaningful solutions.

The purpose of parole, as we see it, is to reduce the actual time spent isolated from the community and to encourage people to once again take up their lives and become contributing community members, while the system provides a degree of supervision and support in the initial stages. By all accounts, including the auditor's, this strategy is generally successful. In 75% to 85% of the cases where parole is granted, the parolee completes her term successfully. Revocations are most often in response to technical violations not the occurrence of a new crime.

Because incarceratory periods are so short in the provincial system—averaging 64 days—early conditional release becomes even more important. Even in the federal system, I hear of cases that go before the parole board after eight years of imprisonment and are turned down due to “outstanding treatment concerns.” In plain language, this means the inmate has not yet completed a course of treatment or a program that was recommended on admission, usually because he's been on a waiting list since admission. If the resources are so strained in that system, are we to believe that they are so much more readily available in our provincial system? To the contrary, it's common knowledge that in provincial correction centres, not only in Ontario but elsewhere in Canada, we are little more than warehousing short-term inmates.

In contrast, early release to the community allows ex-inmates to be connected to their families and communities and to long-term programs and treatment courses that will address their needs and provide supervision during the reintegration process. For women, this is particularly important, as we expect them to take up their roles as mothers on return. For both mother and child, this process is more successful the shorter the separation. Research has in fact led even the federal correctional system to devise a program that includes heightened contact between mother and child, and in the case of small children, the child actually living with the mother while she serves her sentence, whenever possible. In our experience, unless a woman is formally connected with an agency like the Elizabeth Fry Society or is attached to a community program as part of her release plan, she's unlikely to seek help. The supportive agencies and professionals a parolee meets on arrival in the community have the potential to provide support long after the release date. The correctional institution does not.

The system of early release through parole has to be seen essentially as supported by community resources such as halfway houses and other after-care programs. One of the serious problems we've already faced is the most recent reduction of these programs, with the result that many residents of community facilities have returned to jails through no actions of their own. We're deeply concerned with the potential effect of these decisions. We believe that by cutting such resources, we're failing seriously in our responsibility to return people to the community as better-functioning, law-abiding citizens. To go further and entirely bypass the parole process, particularly for those serving longer sentences, will eliminate all opportunity we have to closely monitor the reintegration process and head off problems at the outset. Instead, we simply wait till another crime is committed and another victim added to the list. We believe this is unacceptable.

1110

There is no question that for parole to work, there must be an adequate plan for each parolee. It's interesting to note that one of the first observations listed by the auditor in his 1995 report, on page 261, is that over 40% of files did not include assessments of the suitability of the release plans or recommendations for risk management. Neither the recommendation nor the board response adequately addresses this point. I would suggest that we have become so overwhelmed with the problems, we've stopped looking at solutions; that is, we put so much energy into risk assessment and on the past history of the parole applicant, we have little energy and resources left to devise a plan that actually includes steps to manage and reduce that risk. Our method for reducing risk has come down to cutting out risk entirely by simply keeping the applicant in jail. Is it somehow preferable to have the reoffence occur after sentence expiry?

In monetary terms, the cost of keeping an inmate in jail in Ontario is around \$132 a day. Add to the institutional cost the consideration that in most cases of women who go to jail, there is no supportive partner to take care of the children while she serves her sentence. It's become really obvious to me in my last eight years working with women in the criminal justice system that when women go to jail, their lives disappear. Their children are very often taken on by the state, their apartments are gone, their phones are gone. They come out of jail with absolutely nothing to go back to because they generally don't have partners who maintain their lives while they're in. The cost then becomes even more prohibitive. Add further the fact that most women's crime is related to poverty; release her directly from jail into the community unsupported, and the likelihood of recidivism is increased considerably, with all the attendant costs of reoffence. Compare this to the cost of the most supported stage of gradual release—parole to a halfway house with programs—at about \$70 a day. Surely the balance sheet belies the logic of further reductions in community corrections strategies.

The auditor's recommendation for reducing the length of time low-risk inmates spend in correctional facilities and the speedy reintegration of short-termers into the community makes sense. But this is not enough. Most of the people in this category can and should be released with minimal, if any, supervision, and access to programs as needed. The people we need to worry most about, I believe, are those serving the longer sentences. These are the people who are not only at risk of reoffending but who are most in need of support in order to live as functioning members of their families and of their communities. It is likely both the risk and the need will be as pronounced, if not more so, after serving the full incarceratory term. Again, we must build a great deal of support into the process of returning to the community for these inmates. The only way to do this is through a program of supervised early release.

Finally, a word about electronic monitoring, since it seems to keep re-emerging both in these discussions and as an alternative to halfway houses. We are deeply concerned about the use of electronic monitoring as an alternative to other forms of community support. We do

not see that it's likely to be used as an alternative to incarceration but rather as a way of widening the net and perhaps being imposed as a sentencing option in a case that otherwise would not merit incarceration. As an alternative to community residential programs, we see it as completely inadequate. Electronic monitoring does not tell us how a client is doing in the community, whether she is under undue stress, about to get into trouble again, likely to fall out of a substance abuse program, depressed or suicidal, generally in need of help or intervention. In fact, it doesn't tell us anything at all about how she's doing in the community. It doesn't allow us to support or help her through potential trouble periods. It only lets us know when she's already in trouble again. It simply tells us where she is. I would suggest to you that in the vast majority of cases, this is absolutely useless. Moreover, as a release option, it's not even seen as useful by correctional administrators. In one institution that houses about 400 inmates, we've been told that only one qualifies for electronic monitoring. Electronic monitoring, aside from all the negative aspects we see associated with it, simply doesn't look like a viable, useful option.

I know that other community organizations, like the Elizabeth Fry Society of Toronto, have made some very concrete clinical, technical recommendations in response to the auditor's report, so I won't repeat them today. I ask you simply to look at your provincial parole system in the light of real cost, real need and real effect. I ask you to look at early supported release not as a reward for an inmate who doesn't deserve it or as a risk to the community, but as a positive step to reconciliation and to restoring the balance to a community that's been disrupted and damaged by crime.

The costs in both human and monetary terms of keeping people in jail longer and then dumping them back into the community unsupported is simply too great to bear. The level of community protection attained by keeping a woman in jail until the end of her sentence is negligible at best. The benefits of supported release to the community at large, to the woman and to her children far outweigh the cost of providing such support, and in most cases the associated risks need not be significant. Thank you.

Mr Gilles Pouliot (Lake Nipigon): Thank you, and good morning. Elizabeth, you're to be commended, you and your group of people, for what is under the circumstances certainly an essential service in the context of transition. You therefore see at first hand the "fruit of your labour."

I have in front of me a quote maybe you can help me with. It's from the Common Sense Revolution. Maybe you've heard about it. It's a little pamphlet of convenience that was circulated to lure people to put the X to the right of the ballot. It says, "Funding for law enforcement and justice will be guaranteed."

We listened intently to your presentation, Elizabeth, and you talked about the human dimension, the monetary and human costs. You also indicated prior to that statement that it costs \$132 to keep someone incarcerated versus \$70 for someone in a halfway house—*notwithstanding the human dimension, notwithstanding the supplementary associated costs, such as the children,*

and you spent some time explaining to us the trauma, the shortcomings associated with that. Mathematically, it doesn't seem to make a lot of sense to me.

Ms Forestell: Nor to me.

Mr Pouliot: No, it doesn't to you either.

I've heard it said that they've kneecapped the system without too much thinking. I don't want you to comment on this; I can do this. They've closed 400 beds.

You've also mentioned that the rate of recidivism was less than 20%, and if we factor in the technicalities, that you're 10 minutes overdue for reporting, it's far less than that. In your experience, in a broadly summarized form, what is the alternative to halfway houses if a regime chooses arbitrarily to eliminate them, to gut them? What's left for those women and their children waiting at home, now being raised by the state? Surely that's not what society has come to.

Ms Forestell: I guess what I see as the alternative to halfway houses and various levels of supported early release is that women and men come back into the community and generally go back to the places with which they're familiar. What I've seen in my years of working with people coming out of jail who say, "I'll never do it again," is that unless we have some very regular contact with them, they go back to the neighbourhoods where they committed their crime, or for women very often, they go back to the partner with whom they committed their crime. The next time I see them is generally in the correctional centre or in a federal prison. Generally, the next time I see them, their children are now in care. It takes them many years, if ever, to get their children back and to get their families back together. I'm sure if I stay in this kind of work for long enough, I will see their children there too.

Mr Pouliot: It appears obvious that it takes longer to heal and yet longer to reintegrate, to once again become functional and be a contributor to society.

1120

Before the night of the long knives, before the axe fell—and this was systematic and deliberate. You're the expert in the field. Were you extended not only the courtesy, but there's a vacuum that has to be filled here. How often and how thoroughly were you consulted before Charlie the Chopper came in yielding the axe?

Ms Forestell: I wasn't consulted personally at all, but I have to say that I wasn't at that time in this position, so that may be why. To my knowledge, our organization was not consulted and individual Elizabeth Fry Societies were not consulted, so it did come as a little bit of a shock. I also have to say that we did not lose as many beds as the correctional system for men did, and for that we're very grateful, because it would have been absolutely tragic had we.

But we were not consulted. And we also lost, in various organizations, pretty much all our aftercare programs that include support for incest survivors, support for people recovering from addictions, and those kinds of programs are very essential to keeping women out of jail.

Mr Pouliot: Thank you kindly. Very plainly stated—and I don't wish to catastrophize, for it's too important; we're dealing with real people—you know people, as a

result of a systematic and deliberate move by the regime, by this government, who are left twisting in the wind, filled with anxiety, filled with fear, with no place to go. They're being tossed—those are people—on the human junk pile deliberately. You know some of those people. You come here and you are thankful that you were not as decimated in your program as the male counterpart, but you were maimed, you were hurt big-time.

Ms Forestell: I think we were all hurt. Aside from losing beds for women, I think we're hurt by that closure as a community in general, because it leaves us in a less safe position. I don't think it would be appropriate for me to guess at the motivation that went into the decision to make those cuts, but certainly, yes, I see the people left twisting in the wind.

Mr Pouliot: Allan Rock said it best, but my time's up. Thank you, madam.

Mr John O'Toole (Durham East): Thank you very much for your presentation. It was informative. The Elizabeth Fry Society has been in existence for a number of years. How long have you been the executive director?

Ms Forestell: Of the Ontario Council of Elizabeth Fry Societies only a couple of months; however, I was the executive director of another organization from 1989, so I've been very involved with the system.

Mr O'Toole: A similar sort of function dealing with the criminal system?

Ms Forestell: Yes.

Mr O'Toole: We're always looking for sufficient ways of establishing a deterrent, and that's my question to you. Are there effective deterrents? To pick up on one thing you said, most of the people you see in the transition phase will say, "I'll never do it again." It would seem to establish that perhaps prison in itself is a deterrent. Are there other things that are effective deterrents?

Ms Forestell: But I went on to say that the next time I usually see those people is in a correctional centre or in the federal prison or in court. So no, I don't think that's a deterrent. There are several kinds of crime, and people commit crimes for different reasons, certainly. What we see in terms of women's crime is that it is very often associated with poverty, and that most of the women we see in both the federal and provincial systems—and I've done some quite considerable study on this—are long-time victims of physical and sexual abuse.

We need to look at that crime not just as something evil that person has done but as a symptom of something that's gone wrong in the community and that probably has been going wrong for some time, and has to be addressed both at the individual level and at that societal level.

Mr O'Toole: You suggest then it's sort of systemic. In fact, the suggestion that perhaps a broader moral decay has evolved in the past to perhaps disadvantage those young people, women in this case, so that they're victims before they're even a participant in the crimes. Would it be safe to say that the general morale in society's a partner in this?

Ms Forestell: No, that's not what I'm saying. I'm not saying it's a sign of moral decay, I'm saying that there are problems we are beginning to understand in terms of the underlying causes of crime. If you were to say that

crime has increased, I think you would be wrong. I think how we define crime has changed, the kinds of crimes we incarcerate for have changed and the level of public outrage at some crimes has changed. We have discovered and revealed crimes that have gone unnoticed for many years.

Mr O'Toole: Is the rate of conviction or charges against females increasing or decreasing?

Ms Forestell: It's staying about the same, although we have noticed in the last couple of years a slight increase in violent crimes among women.

Mr O'Toole: I don't know if there are other questions on the panel.

The Chair: Very briefly.

Mr Steve Gilchrist (Scarborough East): Sure, very briefly. Thank you, Ms Forestell, for your presentation. I should mention one of the first volunteer things I ever did was tutor at the women's pen many, many years ago, so it gave me an interesting perspective on things.

One of your closing comments was that we should not look at parole as a benefit for someone who doesn't deserve it. The problem is right now it's automatic. Can I take from that comment that you would agree with those who believe it is a flawed system, that by treating everyone the same, you lose a lot of the incentive for people to make something better of themselves, to take the programs while incarcerated or once released, to differentiate themselves from those who are just coasting their way through the system and that as it stands right now, parole does not really separate the wheat from the chaff, it lumps everybody into the same category?

Is that something we should be looking at and making sure that parole is there just for those who truly qualify and not for those who are, by their own choice, beyond—

Ms Forestell: I'd confine my comments to the provincial system—

Mr Gilchrist: Yes, please.

Ms Forestell: —because I think that the motivations and rationales are very different.

No, I don't see it as part of a system of rewards at all, although I know that it gets used that way. I see it as a safety valve. I see it as a way—if you have someone who's serving two years less a day, they're going to get out after two thirds of their sentence. My preference is rather than keeping them in jail for that second third, get them out into the community in a supervised way so that you can watch them and work with them and coach them and make sure they are connected instead of just dumping them back after two thirds of their sentence with no supports. That's what happens. There are no programs attached.

The Elizabeth Fry Society of Toronto used to provide several after-care programs for people who weren't necessarily on parole. They no longer do that because they don't have the funding to do it and I think they may have been one of the last to actually have that funding. I'm not making a political statement here, I'm just saying as a statement of fact: If you come out of jail and you're not on parole, there is no support. You do not qualify for any programs, and not only do you not qualify for any programs, but people are not generally motivated to go

into programs. It's really something that you have to help people identify that they need.

I'm in favour of getting people out on parole as early as possible so that you can see how they're going to respond to being in the community so you have a shorter period of institutionalization, and because they are going to come out, it's not like the federal system where if they don't come out on parole, maybe they'll stay in for life and never bother you again. They are going to come out and they're going to come out soon. So let's bring them out the best way possible and make sure we watch them carefully in their first few months on the street, to make sure they don't just slide back into wherever they came from.

Mr Bruce Crozier (Essex South): Thank you, Ms Forestell. It's good to have you with us this morning. You used the words "public outrage" in one of your responses and I think certainly one of the things the public should be outraged about is the fact that it, as you have very well pointed out, costs significant money to keep individuals incarcerated, in this case women. As a matter of fact, it seems to me that the figure is even higher for youth, and yet we aren't willing, or the government isn't willing, to spend that much money on maintaining senior citizens in care through their remaining days. I know in my riding I am constantly reminded that we do spend more money per day to keep youth and others incarcerated than we're willing to spend on our senior citizens. That's another outrage that I thought I should point out. I think the alternative that you've mentioned in halfway houses, that there are alternatives that certainly cost less and perhaps they're more effective in the long run, I think we have to focus on.

1130

I'd like it if you could expand your comments on electronic monitoring. I guess when I first heard of electronic monitoring, it was when they would electronically monitor animals and usually it was for their welfare. It would seem that even though we're past 1984, that George Orwell visits us each time, that whether it be a criminal's privacy—some people believe in fact they should have no privacy, but whether it be someone who has been convicted of a crime or whether it's individuals like you and I, I get just a little bit concerned that when a government starts to monitor people, when it starts to set up lines where you can call in and snitch on people—

Mr Alvin Curling (Scarborough North): Big Brother's watching.

Mr Crozier: I'm not so sure that it doesn't bother me—in fact, I know it bothers me—that I'm living in a society where that has to happen.

Mr Pouliot: They'll do it to you next, Bruce.

Mr Crozier: Electronic monitoring in itself bothered me when that was first brought in and you have mentioned how it may not be effective, but can you just remind us of that?

Ms Forestell: Sure. But I also want to take up another part of your question, if you don't mind, or your comment in that you mentioned snitch lines. I think one of the mistakes we make, and I did mention it briefly in my presentation, is that we allow the community and victims of crime to be a party to the criminal justice system only

in so far as they can provide victim impact statements, witness to sentencing so that we can impose longer sentences, call Crime Stoppers and get paid for snitching on someone. These things, I think, are very divisive to the community and don't help at all in terms of restoring the balance that's disturbed by crime. Yes, I think that's a real problem.

I think electronic monitoring is a part of that problem as well. My concern is that it widens the net, that it's not really an alternative to anything that we do now. Even though we may mean it as an alternative, I think it will be used to increase the number of crimes or the number of times we decide to incarcerate people at some level, whether they're incarcerated in their home or not.

I have some very serious concerns about some concrete situations, particularly in the case of men on electronic monitors who are confined to their home who have some history of domestic violence. I have real concern about the family that's imprisoned with that man.

I have concerns about women who are sentenced to electronic monitoring because, as I mentioned, most of the women I see in the jails and penitentiary are victims of physical and sexual violence and so I have some real concerns about seeing them imprisoned in their homes with what may be an abusive partner.

I think there may be some situations where electronic monitoring makes sense. I can see it used to supplement a court order to stay away from someone, for instance, when someone is charged with stalking or charged with domestic violence. Maybe it would be helpful if a woman who's under threat by someone like that could know when he's within 500 metres of her house. Those kinds of things would be helpful maybe.

Mr Crozier: But this government doesn't want to worry about the women who are under threat like that, it's just, "Throw him away."

Mr Pouliot: Bully boys.

Mr Crozier: Maybe that's too harsh. Maybe that's too harsh. Maybe they are concerned—

Interjections.

Mr Gilchrist: Maybe just a little incendiary.

Mr Pouliot: You're kind and generous.

The Chair: Order.

Mr Crozier: I don't recall getting as excited when you said something.

Mr Gilchrist: We didn't say anything about the Liberals.

Mr Crozier: I just said, maybe that's too harsh. What I'm saying is though, and I think it's bearing out, that you don't mind taking funds away when it does involve women and children and you do simply want to throw people in expensive jails. You've kind of said that this is the thing to do.

Mr Curling: A quick comment, Mr Chair.

The Chair: There's less than one minute.

Mr Curling: Even less than one minute, just a little comment. I was watching on the weekend—Cops. You know the program, Cops. If you notice, the fact is that many of these officers—those who are most vulnerable in our society are the ones who are shown. There are poor people, cops going in there, and it becomes a movie now. I've never seen basically the upper class or middle class

being invaded that way. The intrusion, as I see, on people's privacy really sometimes comes down to people who are on the lower strata for economic level, and that bothers me. I'm sure that those who are under surveillance and are being punished in our society are aware halfway homes are being closed and those were the most vulnerable. That bothers me, and I hope our government can be more sensitive in the future. Thank you very much for a wonderful presentation.

Ms Forestell: Thank you.

The Chair: Thank you very much, Ms Forestell.

AUDIT ACT AMENDMENTS ONTARIO SEPARATE SCHOOL TRUSTEES' ASSOCIATION

The Chair: Our next presentation will be made on behalf of the Ontario Separate School Trustees' Association. Welcome to the committee, gentlemen. I'd ask that before you begin you kindly state your names, introduce yourselves. We have allowed a half-hour for your presentation. Again, we would appreciate an opportunity to ask some questions of you.

Mr Patrick Meany: Thank you, Mr Chair. My name is Patrick Meany. I am president of the Ontario Separate School Trustees' Association and a trustee of the Dufferin-Peel Roman Catholic Separate School Board. With me is Patrick Daly, our first vice-president, who is also chairman of the Hamilton-Wentworth RCSS Board; Patrick Slack, our executive director; deputy executive director, Earle McCabe; along with John Jasenec, a chartered accountant and recently retired deputy director of education and treasurer of the Metropolitan Toronto Separate School Board.

I begin under the heading, Education is our Future and our Hope. In the midst of the debate and controversy which always follow every aspect of school reform, be it in the area of governance, teacher education, curriculum, or the size of school boards, the most obvious and difficult task is to ensure that the primary purpose of our educational system, the education of our children, is never obscured.

Our association has sought therefore to respect four basic principles:

—Whether or not the proposed reforms are beneficial to learning.

—Whether or not, and to what extent, the reforms affect the lives of the children in our schools.

—Whether or not the reforms correspond with the wishes of parents who have chosen a Catholic education for their children.

—Whether or not the reforms make the most efficient use of all available human and financial resources for the education of our children.

It is within the context of these principles that we have framed our responses to various reform proposals. They are the principles we will use to guide our response to the proposed amendment to the Audit Act.

The proposed amendment would greatly expand the objective and scope from an inspection audit of accounting records to an audit that would include an evaluation and opinion on the effective use of funds. The Provincial

Auditor would be given the authority to perform value-for-money audits of all provincial transfer recipients.

Under the current provisions of the Audit Act, the Provincial Auditor can conduct a value-for-money audit of the various provincial ministries' programs but can only conduct inspection audits of transfer payment recipients.

While one half of the provincial budget is transferred to several thousand agencies, it is our understanding that value-for-money audits would be applied only to the grant recipients under schedule A, namely the MUSH sector—municipalities, colleges and universities, school boards and hospitals. The approximate annual grant to schedule A grant recipients is \$25 billion. Schedule B grant recipients—general welfare, family benefits, allowance recipients, medical practitioners, music, pharmacists, unconditional grants to municipalities etc—are not intended to be subject to value-for-money audits, although schedule B grant recipients account for another \$14 billion in annual transfer payments.

1140

Under the current economic and social climate, the trend is towards more accountability and assurance of efficient use of funds. We strongly believe that accountability and efficient use of funds are the norm of separate school boards and other assessment-poor boards in Ontario.

The proposed amendment to the Audit Act, which would greatly expand the authority of the Provincial Auditor, is in our opinion a further intrusion of government. Contrary to the Common Sense Revolution, it is another level of authority.

We are pleased to have the opportunity to respond to the proposed amendment to the Audit Act and to express our concerns.

There is accountability to the members of the board, and through them to the pupils, parents, ratepayers and to the community at large. In today's climate, parents, other ratepayers and the community at large do not hesitate to express their views on any aspect of a board's operation, programs and services. Delegations addressing the board on matters of concern are a common occurrence.

The three-year term of trustees gives ratepayers ample opportunity to evaluate the effectiveness of the system and the trustees. As a result of the wide discrepancies in the per-pupil cost of operation, it is difficult for ratepayers to understand the costs of education. If the province were to implement education finance reform, including provincial pooling of all non-residential taxes and the sharing of this on a per-pupil basis, equity would be assured for every student and ratepayer everywhere in Ontario.

If the Ministry of Education and Training were to proceed with the costing model as developed by the education finance reform work group, this would assure the government and ratepayers of the effective use of all funds. Accountability of school boards to both the ratepayers and the government would be further increased by the introduction of the costing model.

Annually, each board submits an audited, very detailed financial statement to the Minister of Education and Training in addition to annual estimate and revised esti-

mate statements. These are complemented by detailed reports on an annual or occasional request basis by the ministry. For example, each board must submit an annual detailed plan for its special-education program in a format which includes prescribed data required and specified by the ministry.

Should the proposed amendment be approved, we strongly urge that an academic supervisory officer, independent of the board being audited, be part of the provincial audit team. An academic supervisory officer would provide valuable insight and greatly facilitate the understanding and implications of any conclusion that might surface during the audit. It would add the important educational component.

An examination of the per-pupil costs published annually by the Ministry of Education and Training shows substantive lower costs per pupil by assessment-poor and grant-dependent boards compared to assessment-rich and less-grant-dependent boards. In Metropolitan Toronto, for example, based on 100,000 students and relative costs per pupil, the annual operating cost for the Metropolitan Separate School Board is approximately \$175 million less than its coterminous boards. This statistic applies relatively across the province for assessment-poor, grant-dependent boards in comparison to their coterminous boards.

Assessment-poor boards are efficient. Efficiency is a trademark of separate boards and other assessment-poor boards in general across this province.

Mr Patrick Daly: A value-for-money audit, although undefined at the moment, is anticipated to be quite exhaustive. We express our great concern about the demands of a value-for-money audit on the school board staff. For example, a provincial inspection audit conducted at one of our separate boards consumed over 300 hours of staff time for auditor, staff interviews and consultations. Additionally, the staff hours required to provide the various analyses and information needed by the auditors were countless. The provincial audit consumed about 3,500 hours for the provincial audit office staff. We expect that a value-for-money audit would increase the demand on scarce staff time. This is to the detriment of the board's operation.

The actions of the provincial government, in targeting central office staff for a reduction, will further erode the staff available to assist the provincial audit staff. In these times of fiscal restraint, the increased scope of the audit to include a value-for-money component will increase costs to the province and school boards. We question its value.

The annual report of the Provincial Auditor traditionally accentuates the negative. This is particularly reflected in the media reports. A value-for-money audit necessarily will focus on negative attributes no matter how insignificant. These relatively insignificant negative findings will be extrapolated from a probable single instance or two to the system at large. Positive attributes of a system or process may be largely ignored and not reported.

Findings reported out of context, whether relatively insignificant or serious, can be devastating to ratepayers, trustees and the board itself. It is therefore necessary that in a value-for-money audit, both positive and negative

findings be placed in perspective. It is also imperative that board staff have a full opportunity to review the value-for-money audit report prior to its release. Board comments on the reports must be taken seriously prior to any release of any report. Again, the report should state the positive as well as the negative.

The letter dated January 7 from the Chair of this standing committee indicates that several thousand agencies are recipients of over half the provincial budget. The letter also indicates that the line of accountability for the expenditure of these moneys is frequently unclear.

The official reports of debates of the standing committee on public accounts, Hansard, dated February 1 and February 2, indicate that as previously mentioned in this submission, only those institutions listed in schedule A, the MUSH sector, would be subject to a value-for-money audit, and those listed on schedule B would not require or need a value-for-money audit, according to the Provincial Auditor.

Those on schedule A, the MUSH sector, account for \$25 billion, or 63%, and those on schedule B for \$14 billion, or 37%. We do not know the rationale for focusing on 63% and ignoring 37% of the provincial transfer payments. The above comment is more perplexing in the MUSH sector, which is already heavily accountable, has efficient systems and because of previous and current provincial reductions has effected efficiencies in human resources, program and service delivery. This is evident in our member separate school boards.

That having been stated, what level of provincial transfer payments would generate a need for a value-for-money audit? It is our opinion that if the proposed amendment is passed, the value-for-money audit should include all publicly funded bodies, whether the funding is partially by provincial grant and partially by the ratepayer or whether the body is funded fully by the ratepayer.

It would be discriminating to audit only those bodies that actually receive provincial funds and not audit those who receive little or no provincial funding. Whether funded by the provincial grant or by direct taxes, the funds come from the same ratepayers. It is therefore important that all public bodies under schedule A, regardless of funding source, be included in any value-for-money audit. It is imperative that an audit report identify not only the problem but the perceived solution to the problem.

It is important that once problems are identified, a proposed solution be included which incorporates consideration of the current funding inequities for assessment-poor school boards and the need for education finance reform.

In conclusion, our association has reviewed the proposed amendment to the Audit Act which would provide the Provincial Auditor with extended authority to conduct value-for-money audits of provincial transfer payment recipients. Our association is aware of the current trend to increased accountability and the assurance of the effective use of funds. However, our submission indicates our concerns about the proposed amendment to the Audit Act.

1150

The current authority for an inspection audit, in our opinion, is of sufficient scope to enable an evaluation of a school board's operation.

It is our understanding that unconditional grants would not be subject to a value-for-money audit and that only specific grant programs would be included for audit.

Specific programs are subject to sufficient scrutiny by the Ministry of Education and Training since detailed annual reports are submitted for the programs. One example would be the special-education programs provided by school boards.

In our opinion, the cost benefit of a value-for-money audit to specific grant programs is minimal. Also, it is impractical in view of the additional cost of conducting the audit by the Provincial Auditor's staff, the redirection of board staff time to assist the provincial auditors.

Our comments pertaining to accountability, efficiency, impact, eligibility for value-for-money audits and proposed solutions express our further concern regarding the proposed amendment.

We urge the standing committee on public accounts to consider our concerns carefully. We wish you well in your deliberations and look forward to your final report. The opportunity to express our opinions and concerns is greatly appreciated.

Mr Meany: That completes our presentation. We are prepared to receive questions.

Mr John Hastings (Etobicoke-Rexdale): Thank you for coming, gentlemen. I'd like to ask any of you whether the existing inspection-type audit ensures all the principles that are contained in a value-for-money audit. My second question relates to the detailed reports you reference from the Ministry of Education. Do these reports actually contain specific either anecdotal or numbers-type indicators as to ensuring accountability, efficiency, impact, eligibility for value etc that you seem to be so opposed to the auditor's proposal?

Mr Meany: I believe that the answer to both is yes, but for any detailed response I think I would ask Mr Jasenec, who knows these things very intimately.

Mr John Jasenec: With respect to the first question, whether the inspection audit was one that was sort of equal to a value-for-money audit—was that basically it?

Mr Hastings: Yes, and if it is and the Ministry of Education also requires detailed annual reports, are all the concepts or elements of a value-for-money audit contained in those items?

Mr Jasenec: The answer to the first question: One of the reasons is that the inspection audit covers pretty well the entire gambit of the board's operation. Under the proposed amendment it would be limited to those specific grants. In our experience, the inspection audit performed at one of our boards was quite exhaustive, and I believe it was sufficient to address the concern of accountability and efficiency.

With respect to the second question on the special-ed document, I know that the Metropolitan Separate School Board submission, a document about so thick—I don't know how many pages but it's quite considerable—is quite detailed in terms of the board's current special-education program delivery and services, its costs and

also any proposed amendments to the proposed delivery and anticipated costs. It's very detailed and very comprehensive, and I think any analysis of that particular report would give tremendous credence to accountability and efficiency.

Mr Hastings: Is it you gentlemen's considered opinion then that the auditor's proposed amendments are purely irrelevant and time-wasting? If all these items are already contained in the existing data?

Mr Meany: The job is already being done, and particularly in respect of our school boards, the very internal need for efficiency because we get less per student back from our taxes than the other boards. In order to provide the level of education that we do, we must be efficient.

The Chair: Time for one short, sharp one.

Mr O'Toole: Just a quick question, if I may, to Mr Meany. I suspect the opening part of the presentation indicated a reluctance to participate or recognize the importance of these audits. Back on page 5 you say that if they're going to have them, you recommend that all public bodies be audited.

I guess my question is very simply this: Don't you think that if you're doing a statistical check between two systems, two boards, for example, funding of busing and the proper use and efficient use of taxpayers' dollars, that that is an appropriate, indeed, necessary function that should be performed so that the people of Ontario are convinced that it's a wise use of resources?

Mr Meany: I don't connect the opening of your question with the end. You were referring to what we say on page 5 that all—

Mr O'Toole: You basically don't want the audits. You think they're redundant, but then on page 5, you say, if they have to be done, all public bodies should be done.

Mr Meany: That's right. They shouldn't be done selectively. For instance, in the transfers, some bodies get transfers, some have sufficient assessment, and we don't think it should just concentrate on those that receive the transfers.

Mr O'Toole: I guess the second part is more important. If you're going to audit a program spending, for example, busing, don't you think it's important to look at both systems and see if there's fairness?

Mr Daly: That's why specifically we outlined in our report that we're in support of the education finance reform work groups' publishing of a costing model that all school boards in the province would have to publish on an annual basis, and their local ratepayers, the provincial government, whomever, could see the various comparisons between boards, just to use the example that you mentioned, transportation. And they could question, why is one board so much higher than in others? So that is in place already.

Mr Crozier: I want to say at the outset that I share your concern about assessment-poor boards. We've had a great deal of discussion of it in Essex South and Essex county in particular. In fact, I'm constantly or at least frequently meeting with the school boards to discuss these issues. Assessment-poor boards are efficient. Maybe they're efficient because they don't have very much money.

But in any event, you've made the statement that we already get very detailed financial statements that lay out the expenditures of the board and that that's reported to the Ministry of Education and Training.

Unfortunately, from my view, and I'd like your comments, these reports, these statements, may have verification of an external auditor that essentially say that if the director of education had authority to spend money, his or her signature was on that document, or if a superintendent or a department head had authority to spend the money, their signature was on that document, and that, according to accounting principles, the books seem to be in order.

But what we're saying here is that may not just be enough, that the external auditor says, "Yes, every cent that was spent had authorized approval," or had approval. What we are saying, though, is that there should be some way that we can say, "Although authorized, we got a bang for our buck." I'm a little surprised that we're not, and you may want to comment further, you talked about the time it takes to do these value-for-money audits. Well, the point is that if you spend some time and you get a bigger bang for your buck, then it's worth the time spent. Wouldn't you agree?

One comment: It was said or even reiterated that these financial audits have the same significance as a value-for-money audit, and I beg to differ with you. I think they're two entirely different approaches to auditing.

Mr Meany: Before I ask Mr Jasenec to comment on the accountancy part of it, I just want to say that there has to be cost-efficiency also in how you examine things. For instance, if you spend more money and add another level of authority and create more bureaucracy, a steamroller to get a fly, it's probably not worthwhile. But on the more accounting details, I'll ask Mr Jasenec.

1200

Mr Jasenec: Yes, if I can address the last comment. I would agree that there's certainly a significant difference between an inspection audit and a value-for-money audit. But it's basically our opinion that in this particular case, particularly with separate boards and with the reporting requirements, that the effort that would be established to conduct a value-for-money, both in terms of its limited scope and its effectiveness, would be very minimal and questionable.

With respect to the question of efficiencies, I can assure you that, particularly in my last 10 or 15 years with the Metro separate school board, with expenditure control, social contract, grant reductions, I can assure you that at the budget time, every line of expenditure is gone over extremely carefully. We need, and I believe all separate boards and assessment-poor boards need, to get the biggest bang for the buck because we don't have too many bucks to get a bang out of.

So it just naturally forces efficiency and particularly in the budget process—and not in only at the budget process time, but throughout the year when the various expenditure levels are monitored and, believe me, efficiencies are being enacted. Then it becomes a question not only of how do you spend your dollars, but also, how can you save dollars? In the past five years, for example, at the Metro separate board, we've experienced downsizing,

restructuring. We've reduced our staff by approximately 600 people and all of that is just producing more efficiency, on top of the hardship, of course, on the staff.

At the Metro board, for example, we're operating at 50% of the administrative costs of the coterminous boards and that's quite significant. And as the brief mentions, also we're operating on \$175 million less than our coterminous public boards in Metro Toronto for 100,000 pupils. They've got 300,000, we've got approximately 100,000, but simply based on a 100,000 pupil level, that's a \$175-million efficiency in Metro alone.

Mr Pouliot: Thank you, gentlemen, as I echo my colleague's sentiment of welcome. With respect, the impression I get, and it's vivid—the methodology, the style goes straight to the heart. You, on the one hand, do not wish to have a value-for-money audit. You feel that you are an elected body so you have to respond, you're under scrutiny. You also have inspection, financial audits there too. But you are inclined that if the sky will fall anyway, if you get beat up, that everybody should get beat up. At first you say, "Not me, not you, but the fellow behind the tree." But when your number comes up, you want all-inclusive. Then you nuance, if one is to read between the lines, and when you do that, you give yourself some latitude, you can give whatever interpretation, it's quite easy.

My first question is: Approximately what percentage of money that you get from the province is allocated to salaries and fringe benefits? Grosso modo, it does not have to be exactitude, a ballpark figure.

Mr Daly: It's 80%. If you'd look at boards throughout the province, it would be close to 80%.

Mr Curling: It's 80% of what?

Mr Daly: The question was, what was the percentage of the budget that went to salaries and benefits?

Mr Pouliot: Yes.

Mr Daly: It's 80%.

Mr Pouliot: By statutes and by the force of bargaining, these are givens, determinants where value-for-money—and we often talk about the thin line—would not apply here. For instance, if you pay your board of education director more money than the Premier of the province gets, under less scrutiny, but we'll let the jury—

Interjections.

Mr Pouliot: The Provincial Auditor could not, say, issue a judgement because hence you become political to say, "That is value for money." The thing is, our friends will tell us, there's only one taxpayer in the final analysis. What's wrong with a value-for-money audit? What scares you when you cannot even define the determinants, line-by-line, what is a value for money audit?

The example of the school bus was mentioned. If it's idle during July and August and there's a senior citizens' across, if you have a low-floor school bus with wider doors, why not use it? It makes sense to all of us. Why don't you rearrange your schedule to fit the public school? You know, we have two systems: public and public-separate. Why don't you rearrange your schedule by 10 minutes or 15 minutes, in some cases, so the buses that were half full or half empty will be full because you're using the same buses? It makes a lot of sense. You don't have to emanate from U of T in nuclear

physics to understand that because that's what the taxes pay—but you're already doing a lot of those things.

I want your concern on another threshold, your comments: You're getting an envelope from the taxpayers, and it seems, given the times, that each and every year there are fewer dollars. There is supposed to be a tradeoff. When you get fewer dollars, it gives you more latitude. That way you have more flexibility to reconcile the fewer dollars. In other words, you get the government out of your lives as much as possible. You feel like you're already protected, you're a legal entity. And I tend to agree with you.

Then you make the pitch for pooling, but we've been around long enough, we would be disappointed if we didn't see it here.

If the committee agrees and if the House agrees that the Audit Act will be amended, we would have to work together. I'm torn at this point. My gut feeling tells me: "Damn it. Let's do it." And then maybe sometimes the dark side of me says, "Whatever the government says, don't do it." But this is not that kind of committee, and I have to yield to say spontaneously, if it's going to be done, let's look at the terms of reference. It's not going to be under the cover of darkness and somebody's going to raid your books and, like you've mentioned, the fear that you will highlight the smallest possible thing and then it takes on extraordinary proportions and that gives us a sentiment of incompetence, therefore saps our confidence. What is it that you are afraid of if we conduct—or are you—a value for audit so that we, Gilles Lunch-Pail and all other taxpayers in Ontario, get better value for money?

Mr Meany: It's not a question of fear. We have nothing really to hide. It's a question of cost and the efficiency coming in to make sure that there is efficiency. You find out very early on, and it's worth underlining, that within the envelope there are two different kinds of things. There are the things over which we have discretion and those over which we do not have discretion, and it's important to keep that in mind.

Mr Daly: And I just make just one brief comment. I want to echo that it has nothing to do with fear. It's autonomy as well, and that a local board has the right, if the trustees so in their wisdom decided, to conduct a value-for-money audit in their area. And clearly, there may be cases where that's happened, and that should be left to the local board of trustees.

Mr Pouliot: I'll substitute "anxiety" for "fear" and I stand corrected. Thank you.

The Chair: Gentlemen, thank you very much. Is there a concluding remark?

Mr Patrick Slack: I wanted to make one very short remark. I appreciated the comment about you would be disappointed if we didn't mention pooling. I think if we want to look at true accountability, we will have to look at that. That is where our children are, and if we can't share the resources of this province with all the children, we are not accountable.

The Chair: Thank you very much, gentlemen. I appreciate your time. The committee stands adjourned until 2 o'clock this afternoon.

The committee recessed from 1209 to 1403.

The Chair: Good afternoon, ladies and gentlemen. Welcome to the standing committee on public accounts. This afternoon we'll be hearing from a number of presenters who are concerned with some possible amendments to the Audit Act.

ASSOCIATION OF LOCAL OFFICIAL HEALTH AGENCIES

The Chair: Our first presentation is being made on behalf of the Association of Local Official Health Agencies. Welcome to the committee, gentlemen. You have one half-hour for your presentation, and please provide us with some time, if possible, for questions.

Mr Gord White: Thank you for the invitation to speak to the proposal to amend the public Audit Act. I'm Gord White, the executive director of the Association of Local Official Health Agencies. With me today is Dr Robert Kyle, who's the medical officer of health for Durham region health department and also serves as our association's treasurer.

The purpose of our presentation today is to provide the committee with some background on the public health unit services in Ontario, our current methods of accountability and our perspective on the proposed amendment to the Audit Act. We intend to make our presentation for about 15 to 20 minutes and leave the remaining time to respond to any questions the committee may have.

Now, what is ALOHA? Well, first of all, the Association of Local Official Health Agencies—this is apart from the Hawaiian reference—is the collective voice of Ontario's public health units. Our membership includes medical officers of health; boards of health; the Association of Public Health Business Administrators; the Ontario Society of Nutrition Professionals in Public Health; the Ontario Association of Health Promotion Specialists in Public Health; ANDSOOHA, which is public health nursing management; the Ontario Society of Public Health Dentists; the Association of Supervisors of Public Health Inspectors of Ontario; and the Association of Public Health Epidemiologists in Ontario.

Our role as an association is to provide leadership and expertise on the management and delivery of efficient and effective public health services. We advocate for the role of public health units on public health issues that promote community wellness, and we serve to help our diverse public health units, which represent urban and rural, northern and southern communities in Ontario, reach consensus on issues affecting them.

Who is on a board of health? Well, some of you probably have been on a board of health before, but for those of you who haven't, a board of health represents the historical tie between health and local government. They are locally responsible for the delivery of public health programs in their community, and most boards of health in Ontario are comprised of provincial appointees, who are community citizens appointed by the Minister of Health, and elected municipal representatives. In nine of the regional municipalities, boards of health are made up entirely of elected representatives.

Funding for our programs is 75% provincially funded and the 25% is municipal funding, except in Metro,

where it is 40% provincially funded and 60% municipally funded.

What does public health do in Ontario? To understand why public health units deliver services in the way they do from their unique perspective, you've got to know a little bit about their history. So if you'll indulge me for a moment, I'll go through it.

From the outset, the goal of public health has been to reduce premature death as well as prevalence of disease and disease-producing discomfort in the population. While other health care providers receive individuals with problems and treat them in order to obtain immediate results, public health units plan and deliver services for the long-range improvement in the health of the population. Over the years, the greatest improvements in the health of the population have resulted from improved nutrition, smaller family size, the introduction of sanitation and immunizations. These improvements are consistent with the public health approach, which is focusing on the whole population and using preventive measures.

Public health units began in Ontario in the early 1800s when town councils hired physicians and inspectors to protect health in the era of early industrialization and urbanization. Those health professionals focused their attention on controlling epidemics and ensuring the safe supply of potable water and the safe removal of garbage and sewage. They applied the best scientific knowledge in a very practical fashion. They were intimately connected with the community and reported directly to town officials. Their activities reflected the societal values of the time and their programs consisted of collective social action.

The public health model of service delivery continues as a community-based movement to address public health needs. It continues to change and evolve as communities redefine their needs and priorities. In the early 1900s, public health nurses were added to provide health education to families in the community. Clinics were established to control the spread of venereal disease.

Zooming up to the 1970s, with the Lalonde report, it was recognized that lifestyles can make an important contribution to health. Public health units developed programs to encourage behavioural change. In the 1980s, we realized that unhealthy lifestyle habits do not develop in a vacuum and that the determinants of health, including income, employment, education, shelter, play an important role in lifestyle choices. Public health units developed expertise in community mobilization using their extensive partnerships in the community. At the same time, community treatment programs were advocated to reduce the cost of institutional care and home care programs were assigned at that time for the most part to public health units.

Today the greatest benefits to health continue to come from public-health-related activities. For example, within the last few years there has been a 95% reduction in hemophilus influenza B meningitis, the most common type of meningitis in youngsters. A hepatitis B immunization program has been implemented which will drastically reduce the incidence of this infection in Ontario, and the current second dose measles program will pretty much wipe out measles in Ontario. There has been a 30%

reduction in age-specific cardiovascular mortality, primarily as a result of improvements in lifestyle. There have been more cancer deaths avoided in recent years due to the reduction in cigarette smoking in the population than to all the improvements in cancer treatment services throughout the province.

1410

Now, a public health approach includes the assessment of health status and health issues; the engagement of health policymakers and the community as partners; and services which are directed at individual, social and environmental factors. The scientific contribution to public health has increased substantially. Health professionals in public health units now include nutritionists, planners, physiotherapists, health educators and epidemiologists. Communicable disease control and environmental protection remain essential cornerstones of public health services. However, public health unit practice has expanded to include new skills in the area of advocacy for public policy, the psychology of behavioural change, biostatistics for the assessment of health problems and the evaluation of programs, community development and mobilization for partnerships as well as risk assessment, risk management and risk communication for effective response to health hazards. Present public health characteristics include a focus on the entire community, public funding and direct accountability, a preventive focus, community mobilization, a multidisciplinary approach, advocacy for healthy public policy and a recognition of the determinants of health. It's fairly complicated when you look at it all.

Public health units continue to offer the greatest potential for improving the health of the population in the future as they work with the community and apply up-to-date scientific principles to practical health problems.

So with all of that, what about standards and accountability?

The standards for public health units come from the legal authority under the terms of the Health Protection and Promotion Act, which was first put in in 1983. Part II, section 5 of the act specifies that boards of health provide or ensure the provision of a minimum level of public health programs and services covering community sanitation, control of communicable diseases, preventive dentistry, family health, nutrition and public health education. Section 7 of the act authorizes the Minister of Health to develop and publish guidelines for these programs and services.

All boards of health are required by the sections of the act to provide as a minimum the programs and services specified in these guidelines. It is expected that boards of health will deliver additional programs and services in response to local needs, as acknowledged by section 9 of the Health Protection and Promotion Act.

The standards for these mandatory programs have developed around five key principles implicit in the mission and goals of public health. They are:

That health is a positive concept with known determinants.

That there needs to be strategic planning for health and for addressing major public health problems in Ontario through established goals.

That the efficacy of actions is aimed at achieving improved health, with an emphasis on general strategies of primary prevention and on health promotion.

That there be an efficient and effective use of resources and utilization of interdisciplinary teams to gain health promotion excellence.

That there be relevance, responsiveness and accessibility of mandatory health programs for all Ontarians.

For each program standard that public health units use, the following components apply:

That there is statutory authority for the program.

That each program has a goal.

That there are objectives which specify the desired results of the program for the province of Ontario. These objectives are measurable targets and, at this time, are targets for achievement by the year 2000. In the absence of adequate baseline data, objects are directional in character. The local objectives are established by each board of health in its annual planning process and indicate movement towards or maintenance of the desired provincial outcome.

That requirements ensure that boards of health provide a service directly or in some cases see that other community agencies provide the service adequately.

That staffing emphasizes an interdisciplinary approach and consistent employee qualifications as defined by the Health Protection and Promotion Act.

That there is monitoring and evaluation which ensures that indicators for each program standard are specified prior to the implementation. These indicators are used to assess compliance with program requirements and achievement of program objectives.

The successful development and delivery of these programs and services require boards of health to engage in ongoing planning, program evaluation, priority setting and needs assessment. In monitoring the implementation of these mandatory programs, the Ministry of Health expects that boards of health be able to demonstrate community partnership, planning and evaluation.

I'll just give you an example of one public health program. This one is called Children in Need of Treatment; the acronym is CINOT. It's a dental screening program. We think it's a pretty good example of service delivery and accountability.

The CINOT program has public health unit dental staff screen odd-aged children annually in schools for dental problems. For instance, my daughter is nine years old and she had an option to be screened at school. She won't be screened again for another two years when she's 11. Its purpose is to catch each dental problem before they become serious. We know that of the school-age children screened, 8% to 10% are referred to their dentist for urgent dental care. The kids from some of these families cannot afford the care, so the CINOT program steps in and funds the dental work. This is a preventive dental health program that is cost-effective. We know that children's teeth are saved by this preventive care.

What is the value of a tooth saved? This is hard to measure exactly, but we know that a \$30 filling, if not done today, will probably result in a much more expensive \$83 stainless steel crown next year or perhaps

something worse. We also know that children with bad teeth often make repeated trips to the family doctors and receive prescriptions for antibiotics. So it pays to have programs like this in place.

Since the CINOT program sees kids more than once, they can check on the work that was done two years ago to see that it was done, and done correctly. Apparently, after its first year of operation there were no more cases of dental fraud when local dentists knew that public health dentists were checking their work. As well, the CINOT program will not approve unnecessary dental work like, for example, filling baby molars that are probably going to fall out anyway when the child gets a little older. So almost every aspect of this program can be measured for its effectiveness. As well, some health units have started computerized staff-tracking programs which have coded sheets to track staff time. Using this information, we can see that there's an average of \$3 per screened child in this program.

A little commercial here: We feel so strongly that we can deliver these programs better and cheaper than other providers that our association supported the Ontario Society of Public Health Dentists' proposal to assume responsibility for all dental screening programs offered in Ontario.

There are many public health examples of program efficiency and accountability. As our chief medical officer of health, Dr Richard Schabas, likes to say about immunization programs delivered by public health units, "Immunization doesn't cost money, it saves money." We can account for all aspects of these programs. We can measure the outcomes and we can extrapolate results and the savings to the health care system.

However, as is the nature of some public health programs, each variable in every program is not so easy to measure. While we can measure the number of participants in a bike helmet awareness program and we can probably conduct follow-up studies later to determine the number of people using helmets when they ride, further long-term information may not show up for years. This is true of many lifestyle public health programs. It's difficult to measure someone who didn't get a heart attack because we taught them to eat right and exercise more when they were young. It's hard to measure someone who didn't get lung cancer because, due to one of the programs that we offered, they didn't smoke in the first place.

Many public health programs participate in accreditation through the Ontario Council on Community Health Accreditation. The sole purpose of this organization is to improve the quality of public health programs and services in the province.

So in the end, what's our perspective on value-for-money audits? Well, our association supports the principle of value-for-money audits. Speaking on behalf of public health units, value-for-money audits are merely an extension of the type of accountability processes that are already in place. As I'm sure you're aware, the Ministry of Health already conducts program audits of its transfer agencies. Many public health units have participated in this process. Boards of health hold public health units

accountable to outcome measures, and the Ministry of Health holds boards of health accountable. We have an accountability process locally and provincially.

1420

I guess for our opinion on independent value-for-money audit, well, we would welcome this. A trained independent auditor with a fresh perspective is always useful in any organizational analysis. Big companies hire consultants for this type of information, and we see its value too. However, there are a few qualifiers to this statement. We do have a few concerns about the process and its outcomes:

(1) Considering the magnitude of the auditing transfer agencies and our Provincial Auditor's statement that his staff is down 26% since 1991 and government expenditures have increased by 21%, how realistic is the vision of even more labour-intensive analysis?

(2) How will the Provincial Auditor, if given this new responsibility, be able to assess the scope of programs and services offered by transfer agencies? Further, how can they assess public health programs effectively? We're concerned that there may be a possibility that there could be an audit mentality that will take over that could miss the long-term nature of these programs. That's something we think we need to mention.

(3) What would the role of the Institute for Clinical Evaluative Sciences, ICES, be in this evaluation?

(4) How can the Provincial Auditor follow up on the recommendations? What are the plans in place for this? As you know, following up is just as important as the recommendations. So I suppose before we can make recommendations, these caveats need to be addressed.

To conclude, we support the principle of value-for-money audits. We see them as effective management tools to evaluate programs, outcomes and deliverables. We also believe that as a government transfer agency we are accountable to the system.

Our only concern is with the quality of the audit. Auditors must be prepared to realistically evaluate the effectiveness of real-life, long-term, relational disease-prevention programs. This may be a lot different than anything they've evaluated before. As professionals in public health, we'd be prepared to do our part and to assist in this training or this evaluation.

Again, thank you for the opportunity to voice our thoughts on this, and we're prepared to answer questions.

The Chair: Thank you very much. The committee members have about three minutes available per party. We'll begin with the Liberals.

Mr Dominic Agostino (Hamilton East): I'd like to thank the presenters. I had the pleasure of chairing a board of health for about five years. I certainly understand the value and the work, particularly in the preventive nature, of what boards of health do across this province.

There are a couple of issues that were a concern and I think still continue to be, and that is the aspect of how much emphasis the government places on short-term costs of eliminating funding or cancelling a program and the tradeoff for the long-term costs of that prevention program. You talked about smoking cessation programs, a

perfect example: the \$100 we may spend today on a program, and on the other hand the hundreds of thousands that will be spent if that individual takes up smoking and then the diseases and so on that come from that.

So there's always been a sense, I think, that governments, and it's not necessarily just the government today but in the past as well, have not fairly looked at those and have always kind of looked at short-term fixes and said, "We're going to save this money, so the program is gone." Tied in with that is a direction of provincial government getting out of funding programs by shifting what are the mandatory programs versus sort of the discretionary type of programs, the ones that you must carry out, so therefore there must be government cost-sharing on a 75-25 basis or whatever other formula is applied, taking those programs and making them discretionary to the local government level, where you can carry that program out, but if you do it, it's 100% local cost rather than 75%-25%.

Do you see that pattern continuing now? And if that's the case, in both those areas, do you see that as having a negative impact on the delivery of local health care programs, and particularly prevention programs?

Dr Robert Kyle: With regard to the mandatory health programs and services guidelines which set the standards for programs, I think the ministry's reach has always been beyond our grasp. In other words, they are ideals that I don't think have been fully implemented throughout the province.

I can only speak for my health department, but as a result of shortfalls in funding from the province as well as locally, we have seen an erosion in staff and therefore service delivery to the tune of about 15% of my staff over the past three or four years. I haven't seen a shift in responsibility being transferred from them being provincial standards to local standards. The problem has always been that the reach has been beyond the grasp and there has never been enough money to fully implement them, and that has been accelerated in the last few years. I don't know if that's answering your question.

Mr Agostino: Do you feel there is enough weight given to the prevention aspects and the short-term costs in regard to long-term? When a decision is made at the provincial level to cancel funding for a program or to downsize a program that a regional board of health would carry out, in the short-term costs, again, of the prevention program, do you think there's enough emphasis given to the long-term costs? Is that given enough consideration, saying, "We're going to cancel this program because it's going to save us X amount of dollars," not considering the fact that cancellation of a preventive program may cost the government 10, 20 or 30 times more in the long term as a result of prevention that may not occur and of disease?

Dr Kyle: I'm not party to discussions that occur provincially. All I can say is that the focus has been and seems to always be on treatment of illness rather than prevention of disease. I think there have been some shifts towards disease prevention and health promotion, but not great shifts, and I think that is just a fact of life that we've had to deal with forever.

The Chair: I wonder if I might turn it over to Mr Pouliot.

Mr Pouliot: It's difficult, gentlemen, because we meet, like you, many organizations and many people, to remember the Association of Local Official Health Agencies, which you want us to refer to as ALOHA. I thought you were a travel agency for a second.

I see that you defined your mandate, your area of responsibility, as a relationship both at the urban and at the not-so-urban, the rural and remote, levels with the government. I also see an emphasis on volunteers, like Harry and Jane doing it after work as a good deed, good citizens trying to help. I also see, from the point of view of the committee, hence the Provincial Auditor, hence the value for money, that we could be embarking on a complicated bazaar. Not unlike entering Vietnam, it's easier than to get out of it.

I'm just wondering, having done this—because your relationship with the government or with the Provincial Auditor, in its initial stages at least, could differ considerably from the established relationship of the Provincial Auditor examining the workings, the direct relationship of ministries, if you wish. With ministries, we have more ability to monitor compliance. We say: "These are our findings. What are your intents?" So the next year or the next time you are benefitting from a value-for-money audit, we would not wish to see that residual or perennial item on the books again. I'm just wondering, given the many facets and the variety, of course, of the group that you represent, if we would have the same ability.

I have one question. Under "A Few Caveats," you ask if the Institute for Clinical Evaluative Studies, ICES, will be consulted. I'm trying to marry the general text, the methodology, and this particular item. Why do you ask that? What is the relationship with your group?

Dr Kyle: I think the thrust of the comment is that a part of the expertise that we require to demonstrate effectiveness of programs is in the whole area of program evaluation. ICES, which has been around for a few years, has developed a track record in conducting health services research, including tools related to program evaluation. So I think it was not a rhetorical question but a question as to, okay, if the Provincial Auditor is requiring us to show more effectiveness, for example, has any thought been given to relying on other institutions to provide us with expertise? ICES was just one example of that.

1430

Mr Gilchrist: Gentlemen, thank you for your presentation. I was certainly paying close attention to a number of the words you used in your talk there. I don't mean this question to be at all frivolous; I say it in the context of what this committee is in fact pursuing here, an exploration of whether or not there is a need for an arm's-length entity, in this case the Provincial Auditor, to have a means of going in and ensuring not just that the dollars are being spent and being accounted for, but that they're being spent for value.

Again, not to be frivolous, but not knowing anything about your group before you came in here today, I guess the only question that comes to mind is, in the context of

the accountability you talk about and purposes such as disease prevention or advocacy or determination of public health, I wonder if you can tell me how I would reconcile the Toronto Board of Health making it a cause célèbre to undertake a boycott of a commercial enterprise purely for political reasons and whether your group has endorsed that move or whether you plan on publicly repudiating it as being inconsistent with the aims and objectives of boards of health.

Mr White: I guess I can answer that question. With regard to the city of Toronto Board of Health, that was a decision that their particular board made and that was something they felt was important to their board of health. That was an issue that was not brought to our association prior to reading about it in the paper the next day or hearing about it on the radio. As far as taking action one way or the other is concerned, supporting it or not supporting it, we have not given that any consideration at this point.

Mr Gilchrist: Do you believe it's consistent with what boards of health were set up to do?

Mr White: There are 42 boards of health and the city of Toronto's was the only board of health that decided to take this action at this time. So we'll let the numbers speak for themselves, I suppose.

Mr Gilchrist: I'll take that as a "no." I believe Mr Hastings has some questions.

Mr Hastings: Mr White, with regard to the dental program for children, having served on a board of health twice as a city councillor, the chap we used as a dentist, who served on three boards of health as the actual treatment dentist for these children, came to us at least twice over those two terms pointing out the cost-ineffectiveness of your program that you spoke so glowingly about, in terms of there being no test, no eligibility. Anybody could come through the door with children and say they needed treatment. Within the prescribed types of dental treatment, he couldn't deny them. Then the moneys would run out, usually six to eight months into the fiscal year. Do you still proclaim the other side of the story, and if your story is true, why is his just the reverse of that?

Mr White: From my understanding of that issue, it's speaking to the fact of how much room the CINOT program has to go with the needs study. So as far as having records or bank statements is concerned, we don't get that kind of information to determine whether or not a family is in need. It's been said, and I've heard this said before, that some people concerned about—you know, if somebody makes a statement that they don't have enough money, we pretty much have to take that at face value. That's the route that we have to go. The program itself is efficient. Whether or not the needs study should be stronger or allow more evidence to be accepted, that's something that I think needs to be discussed, but I've heard it said that some people think that people in our programs feel that it should have more information.

Mr Hastings: He believed that you could actually stretch the limited funds, in his instance, in the one year by two months additional if you had some kind of eligibility criteria so that the neediest folks got the dental treatment they needed.

Mr White: I think that speaks to one portion of the program—how many people are eligible. I don't think that speaks to whether or not the program is effective, whether teeth are being saved and whether this program is preventative. But that is a concern.

The Chair: Gentlemen, thank you very much for your presentation.

COUNCIL OF ONTARIO UNIVERSITIES

The Chair: Our next presentation is being made on behalf of the Council of Ontario Universities. Good afternoon and welcome to the committee. I wonder if you might introduce everyone who's at the table with you.

Ms Bonnie Patterson: I'd be happy to. Mr Chair, members of the committee, thank you very much for having us here today. It's a pleasure to have this opportunity to share some thoughts with you. I offer apologies of the chair of the Council of Ontario Universities, Dr Ron Ianni, who is the president of the University of Windsor. The recent death of his chancellor has him unexpectedly tied up this afternoon with other alternatives. We have with us today, however, Jalynn Bennett, who is chair of Trent University's board of governors on my right, and on my left Dr Jim McAllister, who is a senior policy analyst with the Council of Ontario Universities.

With your indulgence, I'd like to spend 15 minutes or so making a statement on behalf of the universities of Ontario and then spend the rest of the time, obviously, answering your questions. In that regard, the people on my right and left would be very happy to participate as well.

At the outset, let me say that we see no issue with the Provincial Auditor in providing assurance to this committee that government funds are well spent. He is a servant of the Legislature, and to identify wasteful and less effective practices on the part of government as it goes about spending taxpayers' dollars is his job. This committee would not be well served if he were not doing his job effectively. The question is not whether he should audit government expenditures but how he goes about doing so and the scope and extent to which he conducts his audits in such a way that indeed they add real value to the work of this committee.

If we understand correctly the underlying reasons advanced by the Provincial Auditor in support of the proposed amendments, they appear to stem from two perspectives. The first appears to be that he believes that the Audit Act in its current form does not arm him sufficiently to serve his committee well. The second appears to be a lack of confidence in the abilities of the respective ministries responsible for transfer payments to administer these grants within a robust, relevant and appropriate accountability framework and to hold the recipients accountable.

His solutions appear to follow a simple logic. While we have not seen the specific wording of the proposed amendments to the Audit Act, we infer from the Provincial Auditor's presentation to this committee that to rectify the first he seeks to expand the power of his office to enable him, his successors and assigns to have total

and absolute discretion over all aspects of the audit. To solve the second, he seeks to entrench what might be inferred as a one-size-fits-all accountability mechanism within legislation against which he will carry out his expanded mandate. He captures all of this under the label "value for money."

The universities of Ontario beg to differ with the Provincial Auditor. While we cannot speak for the other grant recipients who are equally affected by these proposed amendments, we believe that they are unnecessary, have no added value to this committee and, with particular reference to the governance of universities in Ontario, represent an unwarranted intrusion into the affairs of the universities.

Members of the committee know that this difference of opinion with the Provincial Auditor is not new. Members of the committee know that universities have proven time and again that within their respective governance legislation there is adequate accountability. Members of the committee also know that by any measure of value our universities are accomplished in producing graduates of high quality at among the lowest unit costs in North America. The universities of Ontario already provide excellent value, and existing mechanisms of accountability demonstrate this, which I will go into shortly.

So we believe that at a time when the government asks all segments of society to make sacrifices to fight the deficit and reduce the debt, we cannot stand by and condone these proposed amendments that would inevitably result in higher expenditures of taxpayers' money by the Provincial Auditor in carrying out, either directly or through out-sourced contracting with the external auditing community, very expensive value-for-money audits that have no incremental value sufficient to justify the expense. Not only will these high costs be incurred by the Provincial Auditor, such a value-for-money approach will result in additional costs for the universities in the province. In these fiscally difficult times for everyone, this is simply not affordable.

1440

Let me just turn for a moment to a bit of history as we place value-for-money auditing in the context of university governance and grant recipient accountability. In 1991, following the report of the then Provincial Auditor on the inspection audits of the University of Toronto, University of Guelph and Trent University, the committee spent considerable time discussing, not just the specific findings of the audits, but also the matter of value-for-money auditing.

Many of you may recognize the name of Dr Tom Brzustowski, president of the Natural Sciences and Engineering Research Council of Canada, and former vice-president, academic, of the university, who was at that time the deputy minister of the then Ministry of Colleges and Universities. Tom Brzustowski is a well-respected academic and public executive with years of experience on both sides of this issue. He had this to say to the committee, and I quote from Hansard:

"As far as the value-for-money auditing is concerned, I do not see universities having to be restrained from leaping headlong into that. I am not convinced that in terms of universities that it is a proven art and I say that

also from the position in my former life of having been on a university audit committee for some years."

He went on to say:

"The fact is that when an institution has as visible an output in countable quantity...and we know what the inputs are and we know in comparison across university systems within this country that they are using less input, less resource to achieve the same output, then I say to myself that you would have to have a pretty cast-iron method guaranteed to give additional improvements before you spent a lot of time on it."

Later on, Dr Brzustowski elaborated further on value-for-money auditing in this way:

"If, for example, an attempt in a value-for-money audit was to decide on methodology of instruction, one method versus another, I am not sure on what body of expertise the people conducting the audit would draw unless they in fact called upon the academics themselves, and they are in the business of trying to improve things under the pressure of trying to be more productive all the time anyway, so I really wonder what significant improvements might arise from additional investment of effort."

We believe this was true then and remains even more true today when university funding from government has just been cut by 15% going into 1996-97. Indeed, the committee may well be aware of the brief that I gave early last month to the standing committee on finance and economic affairs on university funding as part of the 1996 pre-budget consultations. At that time, I highlighted the dramatic decline in government grants for each university student since the late 1970s, relative to government funding of schools, hospitals, municipalities and social assistance programs, while the number of university students increased by 40%. I also provided that committee with a comparison of our universities with those in the United States. Neither rocket science nor value-for-money auditing is necessary for anyone to conclude that the government—indeed, Ontario taxpayers—are already getting excellent value for money.

The committee might well ask, "If not the Provincial Auditor, to whom could we turn for the assurance that public funds are indeed well spent?" That is a very good question. The answers, in so far as universities are concerned, are already there. Let me provide the committee with the answers from two perspectives, the first from a university autonomy and governance perspective and the second from an accountability perspective.

University autonomy, legally and academically, is already understood, so I will not dwell on that today. However, what appears to escape recognition is the role and responsibility of each university's board of governors in exercising that autonomy. It is clear that the responsibility for ensuring that universities operate with due regard to economy, efficiency and effectiveness while delivering value rests entirely with the various oversight bodies, including senates and subcommittees of their respective boards of governors, but ultimately with the boards of governors themselves.

In 1991, when the external auditor for the University of Toronto discussed value-for-money auditing with the committee, Mr Geoff Clarkson, partner of Ernst and Young, said, according to Hansard:

"On...the question of comprehensive auditing or value-for-money auditing, all of the major auditing firms now have experienced staff who have been experimenting with and developing techniques for measuring criteria to measure whether money is being spent effectively. I think that this would be a group who could provide a lot of help to universities in developing standards for measuring outputs and input costs."

This view, articulated by a prominent member of the auditing community, that boards of governors of universities already have access to the expertise to help them fulfil their governance mandate and that the locus of value-for-money auditing rests at the institutional level, is further supported by the work of the Task Force on University Accountability, whose report was released by the Minister of Education and Training in May 1993. The task force was chaired by Mr William Broadhurst, retired chairman of Price Waterhouse in Canada, and I think it would be instructive to recall his interchange of views with this committee in September 1993, captured in Hansard. That interchange is particularly relevant to addressing whether the Provincial Auditor is really best positioned to conduct value-for-money audits. Members of the committee can readily refer to Hansard for the full text, but I will simply draw out some extracts to illustrate.

He stated, "Responsibility for ensuring that adequate accountability systems are in place and functioning properly rests with the governing board or council of each university." I would parenthetically add that with few exceptions, the recommendations of the task force were primarily directed at helping boards of governors strengthen their governance and accountability role.

In commenting on the task force's recommendations for a monitoring agency, he said: "I think the Provincial Auditor would find that he would have to retain somewhat similar kinds of people in any value-for-money audit approach. In a sense, the experts will have to be brought into the play, with particular reference to onsite visits." I might just clarify that Mr Broadhurst is referring here to experienced people in various parts of university activity, in a way reinforcing Dr Brzustowski's view.

In explaining the distinction between value-for-money auditing and inspection auditing, he said: "First, the inspection audit is what I might broadly call a financial audit, which is the audit that we're generally familiar with in the public sector for public companies and private companies and all kinds of institutions. It really attests to the fact that the various financial statements properly present the situations of the enterprise."

He then went on to say, "Value for money is an easy thing to say and is almost impossible to define." He further elaborated: "Value for money really requires a framework within the institution. The institution must decide how it's going to assess its own effectiveness. You can't do a value-for-money audit unless the institution itself has got a framework. Now, we're suggesting that the institutions create the framework. If the Provincial Auditor today went into some of the universities to look at the efficiency framework, he wouldn't find it, and therefore it would be rather difficult to audit it. I think there is some concern that someone coming from outside

may bring different measurements to the university system that perhaps aren't applicable, measurements from other ways of doing business and that. The feeling of the task force is that it would be much better if the university system developed its own way of measuring."

In our view, it seems fair to conclude from this body of expert opinion that the responsibility for determining whether our universities deliver value for the money spent by them rests squarely on their boards of governors. They have the mandate and access to the tools from within the universities and access to their external auditors to seek that assurance. Anything else will overlay an unnecessary cost.

Let me turn now to the accountability perspective that I mentioned earlier and talk about the mechanisms that provide answers to the value question. To begin with, universities are surrounded by accountability requirements which, for discussion purposes, fall into two distinct sets.

The first, which I will simply label "preventive accountability," is the construct of all the conditions and requirements set by government to which universities must comply in order to receive funding from government. I picked the term "preventive" to capture the sentiment that until government is assured that the universities have the capacity, capability and control to meet the purposes for which funding is provided, it is not prepared to release funds, at least in part if not in whole.

The second, which again for simplicity I call "results accountability," are all those after-the-fact accounting and reporting activities that universities carry out to fulfil legislative and regulatory requirements and, in so many instances, to show their boards of governors and their various publics, including the government, how funds have been spent and what was accomplished.

1450

Without going into specifics, let me simply enumerate some of the preventive accountability measures. The bulk of the operating grants is allocated to universities by a government-controlled formula. Substantively, tuition fees are set by government and penalties are exacted for non-compliance when these fee levels are exceeded. New academic programs must be submitted for review by the Ontario Council on University Affairs if they are to receive government funding. Specific funding envelopes have their respective qualifying criteria for universities to fulfil before funds are released. Funds for capital projects, even after they've received ministry approval, are released only in stages, contingent upon submission of proof of satisfactory progress and performance, and each year the ministry reserves unto itself funds earmarked for universities as part of the global allocation, which it releases on a line budget review basis. These are not simple or new controls. They've been part of a long tradition of university funding.

Mechanisms for results accountability are even more numerous, and I have the pleasure today of leaving with the committee a sample of various types of public documents that are readily available. At the system level, the Council of Ontario Universities publishes documents that tell of the financial health of our universities, that tell of how well our physical facilities are utilized, that tell of the numbers of students we educate and what they study,

the size of faculty we deploy and the financial resources that universities have at their disposal to carry out their missions of teaching, research and community service. We leave those with you today as examples.

We have processes for the cyclical review of academic quality of graduate programs of study carried out by the Ontario Council on Graduate Studies, OCGS. Mr Broadhurst even suggested that the procedures employed by OCGS could serve as the model for value-for-money assessment. The committee might be pleased to know that work is quite advanced in developing an audit process that would assess the ways by which universities conduct their undergraduate program reviews. It is our intention that by the end of the 1995-96 academic year this process will be in place.

For the Legislature, universities provide reports as their respective enabling legislations require, and for those without those legislative obligations, they provide them to the ministry. For the ministry, universities provide enrolment reports four times a year, each university provides annually an audited enrolment and fee revenues report, certified by external auditors, and we've brought examples for you if you haven't seen those before. They provide the ministry with audited financial statements, but more importantly, universities provide their respective boards of governors with all sorts of reports that help it provide direction to the university. Last but by no means least, we have the reports of the Provincial Auditor on the ministry as well as on the periodic inspection audits of the universities.

Taken each on its own, it may appear that the accountability they provide may not be adequate, but taken together, all of the preventive accountability measures and all of the results accountability measures represent a high degree of assurance to the taxpayers.

Before I bring my statement to a conclusion, I'd like to make a couple of observations.

My first observation is that the task force on university accountability "did not advocate a legislated accountability framework, and did not endorse the committee's recommendation to permit the Provincial Auditor to conduct value-for-money audits in Ontario universities," if I may be permitted to use the Provincial Auditor's phraseology as reported in Hansard.

The task force had good reason. Not only that, it pointed the way towards more cost-effective and more appropriate alternatives. The Council of Ontario Universities took the recommendations seriously, as did the minister of the day in his response to the universities on the recommendations. In recommendation 34, the task force recommended that the Provincial Auditor be given authority to conduct inspection audits of all funds provided by the government of Ontario for operating purposes, whether employed directly for these purposes or transferred to other accounts, and that this additional authority be granted preferably through a protocol with the institution. By making this recommendation, the task force recognized the Provincial Auditor's dissatisfaction with the limitations of his inspection audit and provided an appropriate solution. That solution is not to change the definition of an inspection audit, but to advocate a

protocol that will enable him to better discharge his responsibility.

The Council of Ontario Universities embraced this recommendation fully and proceeded to develop such a protocol to meet the spirit and intent of the recommendation and submitted it to the Provincial Auditor, but regretfully he chose to reject it. I would be most pleased to provide the committee with a copy of the draft protocol if it is the committee's wish; I have one with me today.

The Council of Ontario Universities also embraced the task force's call to strengthen the ability of boards of governors to carry out their responsibilities and developed an orientation manual for members of governing bodies of Ontario universities. I leave a copy with you today in terms of the extensiveness of that guide.

My second observation is probably one that all members of the committee share. We are all caught up in a whirlwind of change, rapid change that is sweeping across the country and through this province in many ways, brought on by our fiscal situation, our demographics and our economy, to name just three, which are not only interlinked, but influenced by globalization. Government, in addressing its fiscal challenge, is also changing its funding and tuition fee policies at the same time as it announced plans through the vehicle of a discussion paper and consultation to envisage post-secondary education in the Ontario of the future.

The short-term impact of these changes is a declining shift in the balance of public funding of universities as tuition fee revenues take up a greater proportion. The net effect remains that universities will be restructuring in intensive, innovative and significant ways to continue to maintain accessibility and excellence for students.

The long-term impact is best captured by Ms Bouey from the Ministry of Finance, who appeared before the committee last month, when she said, "I think it's going to be pretty clear that the transfer payment universe that we have right now may look quite a bit different in a couple of years, or three or four years' time." That direction of change may well see a much greater degree of self-regulation and diminished direct government involvement in university affairs. The Provincial Auditor has argued that the greater the public stake in transfer recipients in the form of funding, the greater the compelling argument for him to conduct value-for-money audits to discharge his accountability to the Legislature. It may be worth noting that we expect the proportion of university revenues coming from the Ontario government to decline significantly in 1996-97 to between 40% and 45%, a proportion that is a far cry from the 80% or so that the Provincial Auditor had in mind.

One should ask, again, whether the boards of governors are not already best positioned and have the appropriate means to protect the interest of all who have a stake in the universities of Ontario. Amending the Audit Act as proposed is entrenching a current paradigm in the face of an emerging but different future. This is not the time to take precipitous and premature action on this front, particularly when all the evidence suggests that universities, each in its own way, are embarked and well on their way to actualize the recommendations of the Task Force on University Accountability.

Let me close by asking, should the Provincial Auditor have the right to carry out inspection audits without question? Does the Provincial Auditor need an amendment to the Audit Act to provide the assurance that the committee needs? Definitely not.

1500

Accountability frameworks are developing and will continue to be developed pursuant to the task force recommendations and they should be allowed the time to come to fruition, and we have made significant progress in this regard.

Are there other alternatives? Clearly, yes, as the task force has pointed out.

Thank you, Mr Chair and members of the committee, for your indulgence. We would be pleased to answer any questions that you have and we've left some information that may further your work as you continue your deliberations.

The Chair: Thank you for your presentation. Committee members, we really have less than five minutes. I will ask for your cooperation then, please, in keeping the questions brief, beginning with Ms Martel.

Ms Shelley Martel (Sudbury East): I guess in this business, perception is everything, and it becomes the reality. Let me try and explain to you where my concern is with respect to the position the council is taking.

You said on page 3 that you felt very strongly that in carrying out an expensive value-for-money audit there may be no incremental value that would be significant to justify the expense. I would have to say on that point, has one been done and how do we know that for sure? That's the first point.

Secondly, you made mention on page 5 that universities were still continuing to provide accessibility to students, despite the decline in funding from the government, and you said at the bottom of the first paragraph, neither rocket scientists nor value-for-money audit is necessary for anyone to conclude that the government, indeed Ontario taxpayers, are getting excellent value for money. I have to say, based on what? Is it based strictly on enrolment figures, or what criteria were you using to make that a reality?

The other problem you've got I think is that at the end of the day people who are members of boards of governors are not elected, as even school trustees are, so despite whatever protocol, memorandums of understanding, guidelines and everything else they're trying to work with, at the end of the day they don't have that accountability structure that we have to deal with as MPPs and at least school trustees have to too.

So I have to say to you, based on that, what happens I think, and I can certainly feel it, is that I just get a sense that you're worried about something. There's something to hide, and that's why you don't want this to happen. I'm not accusing you of that; I'm saying as a result of going through what you've said and still being very cognizant of the fact that at least 50% of the funds to operate institutions are going to come from the taxpayers, how do you get around that? Because that's what it appears the problem is at this point, that for some reason or another, you don't feel that government, or the auditor and hence government, has the right to be more

intrusive in the affairs of universities, even though some 50% of taxpayers' dollars still go to fund your institutions.

Ms Jalynn Bennett: Ms Martel, let me try and respond to that in part. You raised a number of issues. The most important thing from my perspective as chair of a board of governors—and remember, we are volunteers, we are not elected by society at large, but we are accountable for the good management of the institution which we govern. As such, we take that job very seriously.

Certainly, fiscal accountability is very high on our agenda. We're very conscious of the fact that we're stewards not only of taxpayers' money but also anybody who donates to the entity where we're responsible for the management, and that is increasingly to alumni donations, students who donate money—as limited as their resources are, some do—and also to the community at large.

We're accountable in that we have a lot of different stakeholders, not only the government but other elements in our society who support these institutions, so we take this very seriously indeed.

As a chair of a board and a member of an audit and finance committee of the institution whose board I now chair, for many years, we welcome the attention of the Provincial Auditor when it comes to traditional financial accounting and auditing, and we think that as imperfect as institutions may be, over the fullness of time, increasingly, with increased professionalism on the part of university administrators, increased awareness on the part of boards and their audit and finance committees and on the part of the Provincial Auditor, but with more experience, we're getting fairly good at it.

In my view, in the end the best sense of a value-for-money audit is a student reaction, and to the extent you have students still choosing to attend Ontario universities because they believe a university education will be useful and beneficial to them, to the extent that university alumni tend to be donors to their institutions and to the system at large, on some levels I believe this indicates a broad sense of value for the money and the education they received and in terms of employers and the sense of the need of this economy to have a well-educated labour force, our universities' education and background I think has served our broader community well.

Ms Patterson: If I could add just one other comment, and I'll leave these with you. If you remember the time frame here in terms of the accountability report, what I can leave with you are examples of where universities are indeed very aware of the perception issues that you raise. What I will leave are examples of performance indicator projects that have been under way with resulting public documents from a number of the universities, that are relatively new as an approach to the universities and I would ask you and encourage you to have a look at those because they do represent a departure from what universities have traditionally done in trying to keep their publics informed.

As well, I might point out that this also is a national issue and in terms of the work that the Association of Universities and Colleges of Canada is doing, there has just been a research file put out on primary performance

indicators related to research initiatives. Part of the point of my talking about perception to your question is that we are moving forward more frequently in this way than we have in the past and we realize it is an ongoing, important initiative and you will see that many universities are in fact moving in that direction in this province.

From a financial point of view, you raise the issue of, what other ways do we measure? I think my colleague may want to make a comment about some international comparators from the financial point of view.

Dr Jim McAllister: I guess your question really comes down to, how much is enough? How much control? How much reporting is sufficient? I guess we would argue that the Provincial Auditor has the right to do audits now, that every university reports to the Legislature on its financial statements every year, that the Ontario universities produce every year mounds of financial statistics on how they spend the money they receive and all kinds of other information and they've been doing that for many, many years.

It just becomes a question of how much you can do to demonstrate what in our minds is quite obvious. Our data demonstrate over and over again that Ontario universities are turning out a quality product, a good education for their students at a very low cost. We have one of the lowest levels of funding of any system in North America and whereas our students are being educated for about \$10,000 a year, in some schools in the United States you're looking at tuition fees of \$20,000 or \$30,000 a year. If that's not value for money, I don't know what is.

Mr Toni Skarica (Wentworth North): I want to thank you for a very compelling presentation. There are two areas I'd like to ask you about. One is page 11, where you provided us with a veritable blizzard of documents and reports. How much does the University of Toronto pay for the audits that it's doing right now?

Ms Patterson: I don't have that at the tip of my tongue. I can certainly find out for the committee.

Mr Skarica: Can you give us a rough approximation, anyone?

Ms Patterson: My apologies, we have a report on that and I don't have it with me. I'll make sure you receive it.

Mr Skarica: Going to page 13, you brought up a very salient point, in my opinion, that the paradigm of funding is changing right now. Am I right in stating, or in assuming that, let's say provincial funding continues to go down and just grabbing a figure out of the air, let's say it's 20%. Would the amendment that's being proposed allow the auditor then still to go through your entire structure and your entire use of spending money, even though the government itself is only providing 20% of it?

Ms Patterson: While we haven't seen the specific draft of the amendment, it is our understanding and interpretation that would be the case.

1510

Mr Skarica: So say 10 years down the road the public's only providing 5% of your funding, that would allow the auditor then to go into all of your expenditures, all of what you're doing, even though they're paying virtually nothing.

Ms Patterson: That's my understanding.

Mr Skarica: All right. It seems to me to be inappropriate. Is there any mechanism you could suggest? It would seem to me that the person who pays the piper calls the tune, and if, in fact, the public's not paying the piper it shouldn't be calling any of the tune. Is there any way of dealing with the fact that the public may over time contribute less and less of your funding?

Ms Patterson: I think part of what you see in the movement of universities to provide outcomes measurement themselves for the activities that they engage in is one way of addressing multiple stakeholders and investors in the university agenda. I guess our sense is that there is a place for audits. At the end of the day, there is considerable expenditure by every institution in the province to engage qualified external auditors. That has to continue. At the same time, there are compliance reports as we engage in corporate donations or research from various parties to the research enterprise of universities, and there is a considerable reporting requirement virtually in every dollar that comes into the institution. So I think we're on the right path now, and you're seeing more that will be hitting the public eye as institutions develop their response to the accountability task force.

Mr Curling: I too want to thank you for your presentation. I'll focus just on page 12, because the Chairman is looking at me very harshly about the five-minute time frame. But there are two words that keep coming up in your presentation—accountability and of course the question of the thing about value for money. The people who ask us those things as politicians are the people who pay the taxes, asking how accountable we are in how we distribute the money and what value they are getting for it.

Of course, I don't have to lecture you on that, but the Provincial Auditor is the one who does the spin for us to make sure that we can have the answers to give to those people—to give to those people too, who find it almost impossible to access some of the post-secondary institutions, to respond to those people who find that we still have a high rate of functional illiteracy in our province. Although we hear we have such a high standard of education here, we still have problems with functional illiteracy, with the collision on this information highway that comes along, that people have to be more equipped and qualified in order to get a job. So post-secondary education is not a privilege or a prestigious thing any more, it is necessary in order just to survive, in order to work.

The question that would come back is the accountability and value for money. I think you have put it very well here, when we speak about the demographics of our economy and our society today, the diversity that is there, and what value there is for money. The question I would then ask, which of course is rhetorical in a way—we do need value for money, we do need to do it very often, because those who are shut out, those business people who need qualified people in order to do the job and are not getting them—what value are we getting for our money?

I strongly support, regardless of what structure the colleges have set—and I come from a background of 14 years as a post-secondary institution administrator. I think

they need that outside—the government, regardless of who gives the money, whether it is a portion of the private sector that gives to the university, or the government, and if the government even gives 10% of that, that the value for money for what we are giving must be there for us to answer that question to those people who are asking, "So where is our money going?" It's really more of a comment. If you want to make some comment beyond that, it's fine.

The Chair: Any final comments?

Ms Patterson: I would just make one comment, that our greatest struggle I think now is going to be to find a balance between accessibility, which is, as you describe it, with all due respect, the need for more and more individuals to be able to compete through a higher education background. It's going to be the balance between accessibility and excellence, and I think that's what we're striving for as we move forward. At the same time, recognizing that outcomes from what we engage in as higher education institutions, it is important not just for the public but for those of us involved in the system to be able to measure and see how well we're doing. There's no dispute in that in the system.

The Chair: Thank you very much for your presentation.

ONTARIO HOSPITAL ASSOCIATION

The Chair: The next presentation is being made on behalf of the Ontario Hospital Association. Good afternoon, and welcome to the committee.

Mr Ron Sapsford: Thank you, Mr Chair. Good afternoon. My name is Ron Sapsford. I am the chief operating officer of the Ontario Hospital Association, and with me is Carolyn Shushelski, who is OHA's senior legal counsel.

The Ontario Hospital Association is pleased to present to the committee this submission as part of the public consultation process on potential amendments to the Audit Act.

We understand that the Provincial Auditor has proposed enhancing his already considerable authority, which currently enables him to perform inspection audits with respect to transfer payments to certain categories of grant recipients, including hospitals. At the outset, we must say that at no time in the previous three years or in the time of his immediate predecessor has the Provincial Auditor discussed directly with the OHA his concerns or proposals in this area of auditing transfer recipients. The first time we became directly aware of the auditor's recent proposals in this regard was when we received a letter from the clerk of this committee a few weeks ago.

The auditor has asked for the power to conduct what are called full compliance audits and value-for-money audits for recipients of funding from the government's consolidated revenue fund.

The OHA believes this would not be feasible for the Provincial Auditor to undertake and that it is unnecessary and duplicative for the hospital sector because of the high level of accountability present under existing provincial legislation and regulation and other compliance processes and mechanisms.

With respect to the role of the auditor, the Provincial Auditor currently has the authority to perform inspection audits of payments made in the form of grants from the consolidated revenue fund. As hospitals receive such grants, they are subject to these inspection audits.

The Provincial Auditor has proposed that his authority be increased so that hospitals and other grant recipients be subject to compliance audits and value-for-money audits. This would change the role of the auditor, expanding the role to permit the examination of all hospital accounts and records, including medical records.

These new types of audits would include the examination of records detailing how money was spent and whether it was used with due regard to economy and efficiency. Of necessity, this would include the review of all aspects of clinical, operational, management and policy decisions made by hospitals or by their boards. OHA believes that this enhancement of the powers of the Provincial Auditor is unnecessary for the hospital sector, for the following reasons:

It superimposes a new accountability structure on top of complex systems already in place for hospitals.

Bill 26, the Savings and Restructuring Act, recently increased the powers of the government with regard to the review of hospital operations and services.

Special expertise related to the review, extraction and analysis of data is required for the review and analysis of hospital and health records.

The role of the Provincial Auditor could more appropriately be used to improve the accountability structures used by the Ministry of Health for hospitals.

Any expenditure of new funds in expanding the role of the auditor should be directed to improving existing systems and evaluation criteria in the Ministry of Health, not the establishment of a new system.

The principle of confidentiality regarding medical and patient care information is important and access to such information must be as limited as possible. The greater the access, the greater the risk of disclosure.

I'd like to now elaborate briefly on these matters.

Management experts have described hospitals as being among the most complex organizations in existence. The operation, management and clinical activities in Ontario hospitals are already subject to many different review mechanisms designed to ensure accountability. The OHA questions the need for yet another process to review these internal and external activities.

1520

Under value-for-money audits, the Provincial Auditor would have the authority to examine all hospital procedures: the admission and discharge of patients, as well as operational, management and policy decisions. This power, in combination with unchecked access to any and all records, including health records, amounts to permitting the auditor to review patient care in a hospital.

This would have a direct impact on and potentially create a conflict with the duties and responsibilities of the board of directors of a hospital as set out in the Public Hospitals Act. Furthermore, outcomes evaluation in the medical setting is an emerging science, and there is no evidence that the auditor is better equipped to perform this task than, for instance, the bodies seeking to do this

type of evaluation, such as the Institute for Clinical Evaluative Sciences.

The Provincial Auditor in his formal presentation to the committee in February indicated the importance of standard business practices as criteria for evaluating efficiency. We do not disagree with this view. However, hospitals differ significantly from the private sector, to the extent that salaries and benefits of employees make up approximately 80% of expenditures, which are determined to a great extent through collective bargaining.

In fact, discretionary spending in hospitals is very limited, as health care is not a business where major costs are incurred in areas where the application of normal business criteria would bring to light significant material waste and inefficiency.

We do not dispute the fact that hospitals should follow some business practices. Indeed, with the fiscal pressures and the recently announced cuts to hospital funding, it has become imperative for hospitals to operate in a cost-effective manner. However, the return on an investment in value-for-money audits in hospitals conducted by the Provincial Auditor would appear to be very limited, and it is doubtful that the process would deliver value for money for the Legislature or the public.

Hospitals budgets have been essentially flat-lined for three years, and the overall hospital allocation for the next three years will be reduced by 18%, or \$1.3 billion. These fiscal imperatives have provided hospitals with incentives to find value for money through voluntary cooperation and collaboration, up to and including shared programs, services and even mergers and amalgamations.

Under the proposed revisions, the auditor would be in a position to attempt to evaluate hospital board policy decisions without having been party to any of the existing systems of review established in hospitals specifically to review and make recommendations to the board on matters relating to resource utilization, planning, operation and management.

It might be more productive for the auditor to examine accountability systems in general for the system, with the objective of strengthening and clarifying the accountability structures for hospital boards.

With respect to the access to information and records, the confidentiality of health records is a sensitive issue in the health care community and for the public. We strongly support the auditor's advice to this committee that the view of the Information and Privacy Commissioner be sought on this matter.

The Provincial Auditor's statement that he would be content with seeking statistical information is unclear, because it is still not clear what questions exactly are being attempted to have answered. It is therefore difficult to determine what information would be required to answer the questions in this type of audit. The Ministry of Health publishes extensive files of hospital statistics, both operational and clinical, which are already available to the Provincial Auditor.

With respect to hospital accountability, the OHA endorses and supports the need for public accountability on the part of institutions which receive government funds for their operation. However, we believe that the

Ontario hospital system already contains many mechanisms for achieving this accountability.

Hospitals have, in the course of this decade, become increasingly accountable to the Minister of Health, district health councils and the public through the annual operating plan process. These operating plans must be submitted to the minister and a district health council and each hospital must prepare both a program plan and a human resource plan, along with an operating budget which must be balanced.

In addition, comparative efficiency and performance indicators currently under development by the Ministry of Health will develop inter-hospital comparators and benchmarks for hospital efficiency. Routine monitoring of these indicators by the Ministry of Health and the Provincial Auditor provide ample evidence of the performance of the hospital system and the relative performance of individual hospitals.

All public hospitals in Ontario are subject to the requirements of the Public Hospitals Act and its regulations. The hospital management regulation requires a hospital board of directors to govern and manage the hospital and to pass bylaws that provide for its management and administration. In addition, this regulation requires a hospital board to monitor activities within the hospital for compliance with the act, regulations and the bylaws. We have also included, and I'll draw your attention to, some important information on board committees, such as the medical staff and fiscal advisory committees in hospitals, which also have to do with the clinical and financial accountability for hospitals.

Section V of the submission deals with accreditation, which is an external monitoring and review process for the clinical aspects of the operation of the hospital, and we would draw your attention to the accreditation procedures in hospitals as well.

Section VI deals with charitable donations. Hospitals benefit from charitable donations in a variety of ways. All public hospitals in Ontario are non-profit organizations and registered charities. As such, they are accountable for charitable donations under the Income Tax Act and the Charities Accounting Act. Hospital foundations fall under the same statutory accountability provisions.

Public hospitals must continue to raise private money for capital expenditures, as government funding for hospital capital projects is restrained and government usually funds only two thirds of the total costs involved in a given project. Hospitals must raise the remainder from private donations. The Provincial Auditor's mandate is the review of public funds and does not, and should not, extend to the audit of private donations.

Further, under Bill 26 amendments to the Public Hospitals Act, regulations may now provide for the financial reports and returns to be submitted to the ministry by hospitals and the accounting principles and rules that are to govern those financial reports and returns. Also, the minister may by regulation require hospital subsidiaries and hospital foundations to provide financial reports and returns to the minister and, as well, prescribe the accounting principles and rules to be followed in making those financial reports and returns and the manner in which they are to be provided. As

ministry information after submission, these financial returns are also part of the record for the Provincial Auditor.

The joint policy and planning committee, between the Ministry of Health and the Ontario Hospital Association, has for several years been working on the issue of the quality of data submitted by hospitals. The data quality subcommittee has a five-year work plan which will ultimately result in the introduction of data quality audits. Preliminary surveys of hospital clinical data have illustrated a high degree of compliance with accepted reporting standards.

Under powers of the minister to investigate, there is explicit authority for the investigation of a hospital's operations under the Public Hospitals Act, which makes provision for the Lieutenant Governor in Council, on the recommendation of the Minister of Health, to appoint one or more persons to investigate and report on matters which include the quality of management and administration of a hospital, the quality of care and treatment of patients in the hospital, and any matter affecting a hospital.

In addition, the Lieutenant Governor in Council may also appoint a hospital supervisor in cases where he or she deems that to be in the best interests of the public, and I might add that the public interest criteria that have been put into the act are very broad and sweeping.

With the proclamation of the Savings and Restructuring Act as law, the Minister of Health has been given sweeping powers, including the authority to direct the board of a hospital to cease operating or to cease providing a specific service when he or she determines that this would be in the public interest. The minister may also make any other directives related to a hospital that he or she deems to be in the public interest. Clearly, if the Minister of Health decides it would be in the public interest for the Provincial Auditor to go into a hospital for any purpose, amendments to the Audit Act are unnecessary.

1530

In conclusion, the auditor himself acknowledges that compliance audits and value-for-money audits are very staff- and labour-intensive and should be carried out only if they add value. OHA would argue that in light of the various ways in which hospitals are currently accountable, the proposed amendments to the Audit Act would not add value for the hospital sector.

The Provincial Auditor's arguments are predicated on the need for accountability in spending. OHA supports the need for public accountability on the part of institutions which receive funds from the government for their operation. However, we believe that Ontario's hospital system has processes already in place to achieve this accountability more efficiently than through compliance audits or value-for-money audits performed by the Provincial Auditor. Furthermore, with the recent royal assent to Bill 26, the environment in which these proposed changes to the Audit Act are being made has changed considerably from the time several years ago when they were first discussed.

The OHA believes that the focus of the Provincial Auditor's work with respect to hospitals should be on

ensuring that the Ministry of Health has appropriate accountability structures in place with respect to its transfer payment allocations. However, we would welcome the opening up of a process of dialogue, perhaps facilitated by this committee, with the office of the Provincial Auditor in an attempt to address the auditor's concerns about broader public sector accountability mechanisms. Thank you, Mr Chair.

The Chair: Thank you very much. Committee members, there are about four minutes available per party. We'll begin with the government members.

Mr Hastings: In your presentation, you allude to a number of ways of measuring value-for-money audits already. In your estimation and experience, which specific tool in your brief gets closest to capturing the idea of value-for-money audits? Is it the annual planning and accountability report that has to be submitted to the minister in item IV?

Mr Sapsford: It's no single document but a combination of all of them. The operating plan describes, and in some detail, the changes in operation that the hospital proposes, and that is coupled with the financial statements which show the changes in financial position the hospital is proposing. That again is coupled with the human resources plan, so that changes in staffing levels and service levels are incorporated into that. The other major tool is the work being done on the funding formula itself, where the resource use of a hospital to provide care is being incorporated into the funding decision, so there is a series of measures and benchmarks against which hospitals are now able to measure their relative performance.

Mr Hastings: Is that particular set of data readily available to the general public so that when they look at two hospitals in their city or community, or three, if they had such a set of circumstances and a larger population base, they could see that hospital A had a greater efficiency level measuring the way patients are handled etc?

Mr Sapsford: Certainly the program proposals in the operating plan and the budget and the information about funding allocations are all readily available. It's all information in the possession of the Ministry of Health, and with respect to operating plans and budgets, each district health council receives them on an annual basis.

Mr O'Toole: With regard to the minister's recent announcements on funding and the new formula respecting growth, do you think that was a wise move? It's not a policy question. Looking at the changing delivery, the technology and all the health care, the formula itself is continually under review based on some kind of value-for-money audit, if you will. In that respect, do you think growth is one of those components that should be respected and was a good decision?

Mr Sapsford: Growth due to population clearly has an impact on hospital utilization, and to the extent that funding needs to recognize changes in population, quite clearly the government had to do something with respect to growth.

Mr O'Toole: In fact, when you do a value-for-money audit, similar to what my peer here was saying, if I look at one institution, the cost for admissions in emergencies

might be quantified as X and it may be some other smaller number at another hospital. Is there some value in that, in a whole variety of complex program delivery, I suppose?

Mr Sapsford: What we're undertaking and what we've been undertaking in the hospital system for a number of years is to do the detailed costing that would allow you to make those direct comparisons. You have to understand that resource use is dictated by the condition of patients, their physical condition, the seriousness of the illness and so forth. The work we've been doing is to try and match actual expenditures or resource use against the clinical condition of patients so that you can make direct comparisons.

Mr Crozier: Thank you for coming to give us your opinions today. I guess it was about a year ago that I became involved in the discussion in the public accounts committee about value-for-money audits, but I gather these discussions have been going on for some time, so it's not a new topic.

About a year ago, each of the three parties were giving their solemn oath that spending in the area of health care would not be reduced. You've certainly pointed out, and I think rightly so, that what you're now facing is a \$1.3-billion reduction in spending in the area of health care, which is of concern to us. You've also pointed out in your evidence today that Bill 26, the Savings and Restructuring Act, increased the powers with regard to the review of hospital operations and in fact is quite intrusive by government, notwithstanding the fact that the government said it wanted to become less intrusive. I understand what you're having to deal with. That's why it's given me some second sober thought; as you have said, you may in fact be doing your own value-for-money audits because of these restrictions the government has placed on you, notwithstanding what they said they wouldn't do.

But at the bottom of page 3, you said, "The return on investment in value-for-money audits in hospitals would appear to be very limited." I wonder if you could comment on that. Whether it's the Provincial Auditor who conducts them, whether it's an external auditor or whether you do them internally, why would you say the return on investment is limited?

Mr Sapsford: I think we should clarify that this statement is in the context of them being done by the Provincial Auditor. As we understood the proposal, there would be perhaps one or two over a period of time. Our view is that it would probably be more productive for the auditor to spend more time on accountability structures with the Ministry of Health in a systemic way than it will be to do a sampling of perhaps one a year of a hospital to move into a fairly complex environment to try and answer questions about the care.

Our view is that the hospital system itself can be self-correcting if there are appropriate accountability mechanisms, that the auditor can assist in setting up the criteria or the framework and leave to the system the problem of implementing it over a period of time. I don't think we disagree with the principles; it's really a question of how they should be undertaken and what's the best way to get the benefit.

1540

Mr Crozier: I thank you for that clarification because, as I said, value-for-money audits are not new and I would hope they've proven their value in a number of areas. If we could get the ministry providing value for money, you're saying that may be a better investment than choosing one or two hospitals. If value-for-money audits were done in only one or two hospitals across the province, do you think the results of those audits may be of benefit to other hospitals, though? You can answer this in the context that you don't have to agree that they should be done in hospitals, but if they were, do you think you'd be able to benefit from it?

Mr Sapsford: Depending upon the nature of it, the kinds of questions, the area of investigation, I suppose one can look for benefit in any procedure. Our argument is simply that we believe there are better systemic ways to look at the problem, and it's the kind of work we've been doing in cooperation with the ministry for a number of years: to set up the information systems and the measurement tools to allow one to ask questions about value for money and efficiency and effectiveness.

Because of the nature of the business of hospitals and the clinical involvement in the work of hospitals, it's an increasingly difficult task to make information directly comparable to allow you to make those statements, but in the past several years we have made progress, and that work is now being used by hospitals to make the decisions they have to make in the face of the fiscal environment they live in.

Mr Crozier: I appreciate your comments.

Mr Pouliot: Thank you for a very focused presentation, inclusive of food for thought. It would have been a double pleasure—I was to expect the opportunity to renew old friendships and acquaintances. Mr Dennis Timbrell, who's a former Progressive Conservative minister, I understand had a position of importance with the Ontario Hospital Association, but I'm not here to say that. When you see him, will you please convey my salutation, because we're here to talk about another subject, which is that of value for money.

You've mentioned that 80% of the budget is set, predetermined, often by way of collective agreement; it goes to salaries and wages. You have to pay people who provide the essential services.

Bill 26: Your comments emanate from the diplomatic corps, but I could sense that you acquiesce that it could, if the minister chooses, give the minister some unprecedented and extraordinary powers. They could scrutinize and do it and do it again. Disclosure will tell us, for the curious, who makes what, if it's \$100,000 or more, so we expect the list to be consequential, given the high degree of expertise in the health field.

In yesteryear, it was maybe not customary but not unusual to have a hospital accumulate a deficit. Right or wrong?

Mr Sapsford: Correct.

Mr Pouliot: It did happen. You don't have the power to levy—never did—so it became part of the culture. I'm not imputing motive; there's nothing negative about this. If you accumulate a deficit and a magic wand comes along at the end of your fiscal year and picks up the

pieces, under a great deal of stress and dwindling resources, would I not be invited, having this one year become a little more habitual, to respond to the need of the population—some of them at 10 consecutive years of deficit and it was always picked up by whatever administration, right? Deficit financing and deficit at the end of the year; somebody would come in and bail them out.

If the committee would mandate our Provincial Auditor to recommend—and I'm speculating; first you would have to find out, and you're an advocate, a lobbyist—that the system of accounting, and there's a value-for-money element in this, be more uniform and reflect more clarity, in your opinion, would it be of consequence?

I know that the books have to be audited, but it has been a challenging exercise even among ministry; we don't have to go at arm's length. In our "relations directes," direct relationship with the different ministries we find that there is discrepancy in the methodology, in the way they compile things, in the way they present things, all very legit, but it gets to be a pain in the royal neck in terms of consistency. It takes time and it brings more questions. When it's not uniform, people even ask: "What is a deficit? How many sets of books do you have?" If you don't have answers to all these things, the lights get dimmed and people sometimes are not scared but they spook one another. Rumours take on extraordinary proportions.

The Chair: Could you ask your question or can we just deem it?

Mr Pouliot: With respect to you and all the good deeds out there, I'm concluding.

All that is asked by the committee, through a proposed amendment to the Audit Act, is to make it clearer, to make it simpler for the population that pays our wages to understand what is going on. Is that a fair assumption?

Mr Sapsford: I don't know what it's like in other ministries or other sectors, but certainly in the hospital sector there is no confusion about the reporting. The reporting of hospital expenditures is established consistently according to sets of guidelines that have common definitions. The hospital system and the ministry have worked very hard in the last several years to do just what you are suggesting, to make the reporting consistent so that there can be comparisons made from one hospital to another to another. That information is publicly available from the Ministry of Health.

So in terms of being available and clear, I believe that the work that's gone on in the past several years is really to that end. I am not really sure, at least on the accounting part of it, what additionally might be achieved by amending the Audit Act. The Provincial Auditor already has the opportunity to go in and do inspection audits in terms of the accounting, and so has the ability now to make those kinds of comments.

ONTARIO SCHOOL BUS ASSOCIATION

The Chair: The final presentation to be made today is on behalf of the Ontario School Bus Association. Welcome to the committee, gentlemen. Would you please introduce yourselves and then begin. You have a full half-hour.

Mr Dan Stock: Good afternoon. My name is Dan Stock. I'm the current president of the Ontario School Bus Association, or, as we refer to it, OSBA. I'd like to take just a moment to introduce the group that is with me today. On my far left is Richard Donaldson. He is executive director of our association. To my immediate left is Brian Babcock. He is immediate past president. To my right is Fred Thompson, the current vice-president of our association.

Before I get started on my remarks, I must first of all apologize. It was our intention to provide members of the committee with a copy of our written submission. Regrettably, upon our final review, we found some changes that needed to be made and we don't have it for you today, but we will forward it to you tomorrow.

1550

With the exception of Richard Donaldson, who heads up our full-time staff at the association office, we are all owner-operators of school bus companies and presently under contract to Ontario school boards. Even though we are not direct recipients of provincial grants, we wish to make a presentation to your committee.

In short, we are very encouraged by the Provincial Auditor's proposed amendments to perform full-scope compliance and value-for-money audits in the CHUMS or MUSH sectors. We have come to voice our support. In fact, we echo Dominic Agostino's words in Hansard, page 104, February 1, 1996, in reference to municipalities:

"I hope those transfer partners also realize that it is the reality and the need today, that if you're going to depend on government for such a significant amount of your budget, there's also going to have to be some accountability and some scrutiny to ensure that the money's being spent for the things it has been given for."

To your committee's deliberations on domain and latitude, given that there are provincial and municipal funds for many public services, including student transportation, we answer that there is only one level of taxpayer. It is less relevant to taxpayers than to government which level makes a claim at any given moment. We believe that every public body has an inherent responsibility to operate by values and exactitude of transparency and accountability.

There are two points we have been raising with the provincial government for nearly 10 years that we wish to reiterate to your committee today.

First, the student transportation services provided to Ontario school boards by private sector contractors is simply the safest, most secure and most cost-efficient use of tax dollars. This is no accident, but rather the result of decades-long partnering and co-operation between school board administrators and their suppliers. By the way, supporting evidence for any of the claims we make today can be submitted upon the committee's request.

Consistently, repeatedly and probably a little more loudly every year, the OSBA has been encouraging the provincial government to structure student transportation funding in such a way as to encourage maximum use of its investments, exactly what we try to achieve daily in our business.

Since 1989, we have been suggesting practical ways that the Ministry of Education and Training and local school boards can deliver the same high-quality transportation service more efficiently. We are most encouraged by the solutions our government partners have adopted. Compared to just two years ago, we now transport 4,500 more students on 1,500 fewer buses, for an aggregate savings of \$25 million. We have recommended over this time coterminous sharing of school board facilities and services. We have also recommended the transporting of elementary and secondary students, public and separate school students on the same bus. We have staggered times to facilitate double or triple routes by the same bus. We have extended the walking radius wherever safe and practical. We have been employing automated routing technologies and using larger buses instead of smaller ones where possible.

All of us appreciate the tremendous pressure that Ontario school boards face to control spending on student transportation. Unfortunately, it is combined with increased demands on the system, created by expanded programming like French immersion, junior kindergarten, special-needs integration and so on, it is aggravated by competition between public and separate school boards for property tax dollars and it is compounded by shrinking capital budgets which dictate building fewer schools and busing more students out of district.

As responsible suppliers, we expect to be part of the solution rather than part of the problem, especially when we know that alternative methods of delivering these services are both possible and sustainable. But candidly, some of our solutions are harder to sell to constituents than simple contract rate cuts or awarding contracts to apparent low-cost, alternative service providers.

This leads into our second point. For at least as long as we have been advocating a more efficient school bus network, we have been attempting to demonstrate that there is absolutely no comparison between municipal public transit service for student versus school buses operated by private sector contractors—not in the quality and certainly not in the cost of services provided. We suspect that the practice of transporting students by municipal public transit rather than by the safer low-cost yellow-and-black school bus is perpetuated by a chronic lack of full-cost accounting practices which actually masks the costs borne by interministerial subsidies.

We are convinced that full-scope compliance and value-for-money audits, when applied to municipal public transit properties, must at last offer government irrefutable evidence to support our findings. Time and again it has been shown that capital and operating grants paid by the Ministry of Transportation allow municipal public transit operations to offer student tickets to local school boards without any necessity for price to equal the cost. Arguably, the practice may appear beneficial in terms of controlling student transportation expenditure, but by full-cost accounting methods it is by no means advantageous to the taxpayer.

Unfortunately, once started, the transferral of students from school buses to transit can quickly lead to significant portions of municipal public transit fleets becoming dedicated to student transportation, even though the

combined capital and operating costs can actually be as much as four times higher than for standard 72-passenger school buses.

The municipal transportation policy office released a discussion paper on school bus municipal transit integration in November 1988, which is the earliest government study we know that confirms this. There have been others, including one the OSBA commissioned from Ernst and Young in April 1992. This report showed that on seven municipal transit properties studied, incremental buses dedicated to students had come to represent between 12% and 21% of the peak fleet. What is worse, on one property, renowned for high standards of performance and touted by the Ontario Urban Transit Association as a model for low operating costs, it was discovered to be 65% more costly than local private sector school bus operators when compared by full-cost accounting methods.

I repeat, because it deserves the emphasis, by full-cost accounting principles this transit service was 65% more costly than the private sector school bus service. The Ministry of Transportation operating grants lowered the cost differential to 32% more costly. Adding in Ministry of Transportation capital grants made the options appear equal. Who can fault the logic of the school boards, municipalities or transit property in such a case? Only the taxpayers, who bear the ultimate cost of such inconspicuous waste.

We shared these interesting data with the ministries of Education, Transportation, Municipal Affairs, Treasury and Economics at an interministerial meeting in June 1992. This occasion was at least in part responsible for several initiatives to examine the family of transportation services provided by the province. The original intent was to bring about a safe and equitable integration of services. How hopefully we received that news and extended our co-operation, only to witness to our astonishment immediate divergence on to pro-public transit agendas.

Involvement by private sector transportation providers in provincial reviews has been nominal at best, and not existent at worst. I and my colleagues here could spend hours acquainting your committee with our disappointment in projects like the community transportation review and the provincial Task Force on School Bus and Transit Integration. Please understand that we do not object to the goals and principles of either the CTR or the task force on integration. Our issue is with an obvious pro-transit bias that exists, unsupported by facts, that we find confusing vis-à-vis the ultimate interest of taxpayers.

1600

I have a few statistics to share with you which our industry finds shocking. We've brought them to the attention of the Premier and his ministers last November and we await with interest the results of their deliberations. An unreleased study conducted by the Ministry of Transportation in 1993 discovered that 70% of municipal transit properties ran school extras five days per week. Perhaps this suggests to you, as it does to us, the puzzling existence of abundance, of overcapacity in Ontario's public transit systems.

The Canadian Urban Transit Association fact book, 1993 edition, allowed us to compare the spare-vehicle

ratios as well as vehicles-to-people ratios in municipal public transit with our private sector school bus operations. To our shock, we found twice as many spare vehicles, six times more operation and administrative personnel and nine times more maintenance personnel in transit operations. By our calculations, the amount of capital displaced by unused transit vehicles could represent nearly \$133 million. First-year administrative and maintenance savings through restructuring overbuilt transit operations could realize between \$31 million and \$55 million. These figures have raised troubling questions for the OSBA about where tax dollars for student transportation ought to be directed. So far, we feel the questions remain largely unanswered, although the audits now proposed by the Provincial Auditor may one day prove an effective way of addressing such persistent inequities.

We conclude today by reassuring you of our confidence in our industry's ability to continue to satisfy safe student transportation service requirements. What's more, with a safety record 16 times better than any other road transporter, we volunteer any assistance our customers require to comply with audits. It is our conviction that the taxpayers of Ontario stand to benefit a great deal from these initiatives.

Thank you, Mr Chairman and all the members of the standing committee on public accounts, for your time and attention today. The Ontario School Bus Association believes in what you want to accomplish. If you have any questions, we'd be pleased to answer them.

Mr Crozier: Thank you, gentlemen. It's good to see you again. You've helped me in two ways with your presentation today. One, as the day closes, our time becomes a little more tight and I'm going to have to slip away to another meeting shortly.

The second way you've helped is in the way you've supported the idea of value-for-money audits. Having spoken with you before and knowing several of the private operators in Essex South as well as I do in Essex county, I appreciate what you're saying when you compare the safety, the efficiency of private operators as opposed to municipal. In Leamington that's not a big problem. In fact, if I think of all the towns in my constituency, only Leamington has public transportation, and it's only one bus. So it's not as significant in my riding as it is in others. But I appreciate your support and how you have pointed out that value-for-money audits will, you feel, support your comments today. Certainly, I appreciate you coming before the committee. I haven't any real questions, unless you have any comments to that.

Ms Martel: Let me follow up from where Mr Crozier was going, because I think we would find substantially the same thing happening in my riding, which is very much outside the city of Sudbury, where you wouldn't find students on public transit because there isn't any, or where they are going is not anywhere in relation to where high schools or elementary schools are located. In terms of the studies that you referenced and the municipal transportation systems that you were talking about, can you tell me, is that predominately in Metro? Can you give me a sense of where the biggest part of the problem has happened? Frankly, in my riding you would see most

of the students being moved by private transportation systems.

Mr Brian Babcock: The evidence that we have comes from an unreleased report done by the Ministry of Transportation. In that report, they identified 70% of the properties in Ontario as having vehicles, at least in part, if not in their entirety—am I right in this, Rick?—dedicated to school transport. To be clear about this, without studying that report I can't answer your question directly as it pertains to Sudbury and it would be unfair to do so. But what they did indicate was that two properties had as much as 65% of the fleet dedicated to school transport. Is that an accurate figure?

Interjection.

Mr Babcock: The report was the result of a survey that was sent to transit managers across Ontario.

Ms Martel: But you had talked about a study that you had done yourself through Ernst and Young. Didn't you talk about seven properties that were looked at in that case as well, or did I make a mistake?

Mr Babcock: No, you didn't make a mistake. There's a distinction here. The study that was commissioned by us through Ernst and Young was conducted in 1992. If I can do this correctly, and I think I can do this from memory, they examined approximately seven properties in Ontario, and what they were looking for were properties that would offer information in terms of full-cost accounting. What they were looking for was a comparison of the full cost of municipal transit with school children apropos school buses. They indeed did find properties that would agree to the study.

The report can be given to you. It's public; it's our 1992 Ernst and Young report. They discovered in one property, I believe it was with 36 vehicles, that the cost per day on a full-cost accounting basis in 1992 was \$1,500 per day more than the cost would have been with contracted services with school carriers. That is identified in the study and we can make it available.

Mr Pouliot: A renewed pleasure. I know the person at the ministry you're referring to in 1992-93 only too well, but since that time I too have found a quality that I didn't know I had. I see things with clarity now—more so in the past year.

No doubt the invitation to have the Provincial Auditor come to your shop, to your boutique—and under his mandate of value for money, this is the picture of excellence. There's no question. It would be demonstrated, then, in terms of value for money, better value for money cannot exceed those criteria with you. You have an image of perfection. But as always in life, not all is perfect.

You've been much maligned. People saw that the vehicle has always been half empty, never half full. People saw the senior citizen aside from the school board building during July and August and for too long they saw the bus not pulling the service. They even went as far as to suggest that if the public and separate entities could arrange their schedules, that as opposed to having one bus half empty, you could have one bus full because you would be avoiding duplication. But you saw that coming too.

People will say that you also get caught with competition. An audit of value for money will not be used as a

vendetta to attack the school board or, in some cases, other entities who allocate contracts or who dedicate the money. The fact is that there are more people to serve. You can plead in the marketplace that you're the best, and you are. There are fewer dollars coming down the system—we know that—both this year and next fiscal year, money flowing from the province, and if you're the municipality you have the power to levy for school taxes, but beware if you increase taxes. You know, we pay twice, for the interim and then we pay—so when we make those two cheques, they don't take it off our pay-cheque. So if you raise taxes, you do so at your own peril.

1610

You will continue not to be under a state of seige but, and you've said it yourself, to have the opportunity with or without a value-for-money audit, in this case, to serve people, because there's more centralization. You have to go to Harry Smith's farm to pick up the son and the daughter because the little red school is toute finie. Now they bus little Anne and little John to the big brick school, that big cement tower with glass panels.

So things will be alive and well, but you feel that value for money perhaps—and I need your help—would give you a better chance at the marketplace because with value for money you would have the auspices of the Provincial Auditor, and maybe you can attach your name to your business card, which would give you the halo of sanctity that we all know you have, but not everybody elsewhere knows that you do.

The Chair: I think there's a question there. Gentlemen?

Mr Babcock: Let me say this in response to Minister Pouliot's comments, and I appreciate his comments: Our industry has enjoyed partnerships with virtually everyone we have worked with over the years, and one of those partnerships we see clearly as being the Ministry of Transportation's office. When we talk about our 16-times-safer factor, it's clear to us that we are not alone in generating that kind of safety record. It's clear to us that our partners at the Ministry of Transportation have a large contribution to make to that.

Let me speak as clearly as I can about why we see ourselves being here, and I think this will answer to the minister's comments—excuse me; to the member's comments—if I can.

Mr Pouliot: I only wish you were right.

Mr Babcock: I apologize. I'm thinking in the past. So, Member Pouliot, this is how we see this, and we hope with clarity. We have made it our business to be neither righteous nor condescending to anyone around us, righteous about ourselves or condescending to others. We have tried to scope out with clarity what is responsible in terms of our actions and to integrate the responsibility of decisions with our partners: with the school board, with MET, and indeed with the Ministry of Transportation.

What has been a fault in the system, and this is what we wanted to speak to, and it's not a person fault but a system fault in our view, is that supply-side funding to transit is very grand indeed: 75% to capital, 50% to operating. Now, without process audit or what the committee refers to as value-for-money audit, there are no assur-

ances of accountability or transparency. We don't come to you saying that we have the answers. We come to you only asking that the playing field be levelled.

Mr O'Toole: Thank you for an interesting presentation. It brings back old memories when I was a school trustee and the age-old dilemma of school buses. Just to clarify and just to put it on the record, the difference I guess between the municipal operation and the school board bus operation is the method of funding, and you mentioned the formula. In your case, you get kind of a ridership fee for service as opposed to direct operating and capital subsidies. Is that not true?

Mr Babcock: We as private contractors receive no direct moneys from government.

Mr O'Toole: Just in the way of so much per head per mile kind of thing?

Mr Babcock: That's pretty close, sir. Correct.

Mr O'Toole: Okay. The other part you mentioned is that you're not fully eligible for a value-for-money audit because you're not a direct-funded part of the MUSH or the other sector. I recognize that, and really it leads to my first question. Technically, would you like to tender or quote this directly and just circumvent the whole kind of—I'm not sure what busing has to do with education anyway. I've wondered for a long time exactly what it's got to do with that, and we spend a lot of money at it.

Mr Pouliot: It brings people to school.

Mr O'Toole: No. They can get there any way they want: by train, walk. You know, there's a whole series of things.

Ms Martel: In your riding maybe.

Mr O'Toole: Oh, no. I'm very heavily involved—

Ms Martel: In the east part of my riding, hardly.

Mr O'Toole: No, your part of the riding is sort of helicopter.

Could you answer that? Would you like to quote directly to the ministry or through some regionalization of boards? Is that kind of the ideal goal for later on?

Mr Babcock: I don't mind quoting directly to that, if our president would still like me to answer this question. The only thing I would ask is, I'm not sure I'm clear on your question.

Mr O'Toole: The question is, would you like to be able to run the school bus business completely? That is to say: Here's the area. There are 500 students. Here's the schools. Get them there. And bid on it.

Mr Babcock: Thank you for the directness and the clarity of your question. Let me say this about that. The group that's in front of you are elected representatives of the Ontario school bus contractors in Ontario. Directly to your question, this group that's represented here does not have an official stand, but let me answer your question this way. There certainly are members of our industry who are satisfied to look at ways of expanding the levels of service they can provide to school boards, to expand further on contracting out. Essentially, we do contract out.

Mr O'Toole: Some of them do. Some of them—

Mr Babcock: Essentially, we do. So some members of our industry, to answer your question if I can, not from

the Ontario School Bus Association's point of view, but to answer your question as truthfully as I know how with the committee, there are people in our industry who clearly can and will expand services available to school boards.

Mr O'Toole: Will that favour competition, do you think? This is the last question here. You know, you think of the big operators, the Laidlaws, and the small ones, and there's a whole formula there for that business.

Mr Babcock: Can I offer a personal opinion?

Mr O'Toole: Yes.

Mr Babcock: This is a personal opinion. I think the school board and the Ministry of Education are best positioned to protect their interests, to assess what is an appropriate level of arm's-length transaction. So when they buy services, I think they are best positioned—this is a personal opinion and my colleagues may indeed wish to comment on this—to decide what's an appropriate level of decision-making when they assign contracts.

Does that help you? Have I been clear enough on that or did I leave you mystified?

Mr O'Toole: I took that as a yes. I think that competition is a good thing, and that's my own belief. I think that the fewer large mega-operators, the better the price is going to be, and that's basically what I'm about.

Mr Babcock: Let me say this about that. Your question is very good. We represent approximately 350 private contractors in Ontario. We represent the principles at stake with the transportation of two thirds of the students in Ontario or more. How many do we represent?

Interjection: In terms of busing, we've got 800,000 students a day.

Mr Babcock: Within our own industry group there will be divergent opinions on levels of service or what's an appropriate size. It's a very difficult thing for us to answer from a policy point of view in a committee like this. There will be very divergent opinions.

Mr O'Toole: Do you work to standards? Your organization's purpose I suppose is to work to standards and some sort of consistent—

Mr Babcock: The principles of the organization, exactly, are to identify those issues that can best promote the common interests of the industry and to provide learning experiences for our members to assist them as they deal with change. I don't need to advise the committee we're dealing with massive amounts of change in 1995, all of us. So our principles are to represent those common interests that we can represent and to do so in a professional manner and try to be forward-looking as we address change.

The Chair: Gentlemen, thank you very much for your presentation. We appreciate it.

Committee members, I want to draw your attention to the proposed framework for draft report and summary of recommendations prepared by our research officer for Thursday's meeting. Unless there's any further business, the committee stands adjourned until Thursday morning at 10 o'clock. Thank you.

The committee adjourned at 1620.

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Curling, Alvin (Scarborough North / -Nord L) for Mr Colle

Preston, Peter (Brant-Haldimand PC) for Mr Beaubien

O'Toole, John (Durham East / -Est PC) for Mr Carr

Clerk pro tem / Greffière par intérim: Tonia Grannum

Staff / Personnel: Steve Poelking, research officer, Legislative Research Service

CONTENTS

Monday 4 March 1996

1995 Annual Report, Provincial Auditor

Ontario Board of Parole	P-185
Council of Elizabeth Fry Societies of Ontario	P-185
Elizabeth Forestell	
Audit Act Amendments	P-190
Ontario Separate School Trustees' Association	P-190
Patrick Meany, president	
Patrick Daly, vice-president	
Patrick Slack, executive director	
John Jasenec, chartered accountant	
Association of Local Official Health Agencies	P-194
Gord White, executive director	
Robert Kyle, medical officer of health, Durham region health department	
Council of Ontario Universities	P-199
Bonnie Patterson, president	
Jim McAllister, policy analyst	
Jalynn Bennett, chair, board of governors, Trent University	
Ontario Hospital Association	P-204
Ron Sapsford, chief operating officer	
Ontario School Bus Association	P-208
Dan Stock, president	
Brian Babcock, past president	

CA20N
XC21
-P72



100-4
Publication

P-12

P-12

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Standing committee on public accounts

1995 Annual Report,
Provincial Auditor

Retail Sales Tax

Comité permanent des comptes publics

Rapport annuel 1995
Vérificateur provincial

Taxe de vente au détail

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 7 March 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 7 mars 1996

*The committee met at 1004 in room 151.*1995 ANNUAL REPORT, PROVINCIAL AUDITOR
RETAIL SALES TAX

The Vice-Chair (Mr Mike Colle): I am in the committee's hands; whatever you wish. We can start in a more general area, if you'd like. One of the key areas for our requesting the Finance people to come here was to address the specific recommendation the committee made, as we wanted to check with Finance before we would proceed any further on that issue of shifting from retail to wholesale. I don't know what your desire is.

Mr Gilles Pouliot (Lake Nipigon): Whatever the committee—

The Vice-Chair: The two people coming in from Oshawa are the ones we have to speak to, unless you want to get into specific areas with the deputy minister.

Mr Pouliot: I would be happier—the time is valuable. The storm is hardly an event. It's Canada and it's winter. In my special neck of the woods—and I say this with the highest of respect and anticipation. It's all over the media that we leave earlier.

The Vice-Chair: There's been an accident.

Mr Pouliot: More importantly—

Mr John O'Toole (Durham East): A very serious accident.

Mr Pouliot: Oh, my apologies then. That always happens when you see this—

The Vice-Chair: It's not weather-related.

Mr Pouliot: My friend Mr Kormos has agreed to sub on the committee this morning. By reputation, he's also agreed to come out of his shell. He's maybe not all that familiar with the format.

Mr Peter Kormos (Welland-Thorold): I'm working on it, Chair. I think with the right sort of support from my fellow committee members, I may be able to overcome my recalcitrance.

The Vice-Chair: I guess what we can do is we can start with some general questions. We've got ministry people here, and hopefully the other people will be able to get through. So we'll bring the committee to order.

MINISTRY OF FINANCE

The Vice-Chair: Who we have with us is Dina Palozzi, who's the deputy minister of revenue and financial institutions. Dina, could you have the people with you identify themselves?

Mrs Dina Palozzi: Yes. I'd like to introduce Peter Spiro, from the office of economic policy, who I'm sure has been at this committee before, David Bidner, who is

with the office of budget and taxation, and Denise Dagenais: tax policy people in the Ministry of Finance.

The Vice-Chair: Thanks for coming. Would you like to say a few words, Dina?

Mrs Palozzi: Other than introducing, I was intending to have Roy Lawrie, who's the assistant deputy for tax division, and Dario Savio, who's the senior manager for audit in the retail sales tax branch, with us this morning, and they will be hopefully arriving shortly.

I understand that the focus of the meeting today was for us to discuss with you the recommendation by the Canadian Council of Grocery Distributors around the issue of the appropriate point of collection for retail sales tax, basically the recommendation being that it be collected on tobacco and alcohol at the wholesale level rather than the retail system.

We hadn't come here prepared to make—we weren't asked to make a presentation. We were asked to come here and engage in a discussion with you and answer questions, which we're prepared to do. As I indicated, Peter is well informed about issues around the underground economy generally, so we could certainly pursue that line of conversation for the next little while, and we certainly are tax policy people, have met in fact, I believe, with the council of grocery distributors and do understand—I'm not sure if the staff here, Denise and David, actually attended the meeting, but I know the council has made representations to the ministry and we have met with them to hear their recommendations.

On your issue around alcohol, it would seem to me that you may wish to speak to the LCBO personnel or staff on that issue as well. So we're prepared to respond in whatever capacity we can this morning. We didn't intend to have a presentation ready for you but simply to be here to respond to questions.

The Vice-Chair: Okay. What we can do is we can start with the government side with a rotation of 10 minutes each.

Mr John Hastings (Etobicoke-Rexdale): Ms Palozzi, I'm wondering about your thinking regarding the comments and the specific suggestion of Peter Oliver—I believe that's his name, the executive director of the Ontario Restaurant and Foodservices Association—with respect to the prohibition of credit, lines of credit that a restaurant or hotel operation could institute in purchasing liquor and spirits. As I understand it now, they are prohibited from doing so.

Maybe it's a little out of your field, but I'm wondering what reservations you have about it, and how could those reservations be contained so that suggestion could see the light of day some day? Because most businesses do operate on lines of credit. I suspect it has to do with the

puritan drinking tradition in Ontario, and also easier access of moneys and the underground economy and all those things, but it is a definite job inhibitor in the restaurant and foodservices industry, the hospitality industry, with many people I've talked with, particularly in the hotel industry.

1010

Mrs Palozzi: I'll make some comments, but certainly it's more appropriate that the LCBO would comment on that. We do know that the use of credit cards has been made available to individual purchasers, and I believe that at the restaurant level the issue is as you've described it. It's a combination of the cash-flow kind of issue in terms of being able to buy on—are you talking about a line of credit, or are you talking about the use of credit cards at that level?

Mr Hastings: Probably more credit cards, although I would think potentially there could be a small line of operational or a monthly line of credit to people in the hotel industry and some of your larger restaurants and catering.

Mrs Palozzi: My speculation would be that it would be primarily a cash-flow consideration and past practice in terms of the structure of the selling of alcohol. It's something that I think we would need to raise further in discussion with the LCBO around their reservations about that. I'm not in a position to respond any more than that.

Mr Hastings: Could you take that specific item away and see how you could structure or overcome or have a further meeting with Mr Oliver to see how he views your reservations so that we could come up with a potential solution that both satisfies his members, I suppose, to some extent, and also satisfies and protects the integrity of the retail sales tax and all that other stuff that's associated with it?

Mrs Palozzi: I will start by raising it with MCCR, with Consumer and Commercial Relations, and proceed from there.

Mr Hastings: Because they saw it as a clear job creator in a modest way.

Mr Toni Skarica (Wentworth North): I've had a number of businesses in the restaurant industry complain to me in my riding that they're competing against the outdoor stall person, the person who has a hotdog stand and who sells a hotdog for \$2. It's all cash business. That person's not paying PST. That person's not paying GST, or not collecting it, not collecting PST-GST, not paying retail taxes, not paying property taxes and that type of thing.

What's happening in my area, and I think it's probably province-wide, is that legitimate business people who are in the restaurant industry are finding that they're losing business to these people, and often they're very brazen. They're out practically less than a block away selling hotdogs and foodstuffs and that type of thing and not collecting any taxes or paying any taxes at all. You see that here in Toronto quite often. On Yonge Street you see the stalls of people selling jewellery outside the major stores, yet they're not paying any taxes at all. Is there anything being done with reference to that, what I think is a growing industry of people who don't pay any taxes at all?

Mrs Palozzi: I think when we were here in October, if I recall correctly, at public accounts, we were then dealing with the subject of the audit on retail sales tax and the whole issue of unregistered vendors. Since we were here in the fall, we had committed to increasing our personnel in the audit area, and we have taken steps to initiate that process by identifying resources from elsewhere in the ministry. Some of you may be familiar with the ads we've put in the paper. We are in the process of hiring an additional 50 auditors for retail sales tax, and looking at how we can prioritize our workload to focus on the issue of unregistered vendors, because the two components of the recommendations in the fall, as I recall, were focused on the problem of not getting to registered vendors and their compliance, but also the fact that there were a number of unregistered vendors that are doing business and aren't submitting tax.

Mr Skarica: Are they being audited now at all, even the registered vendors, the people you see on the street? How often are they audited? Because the perception of the public is they're not being audited at all and they're just pocketing the money.

Mrs Palozzi: Well, there is a cycle. We don't typically provide information on what the exact cycle is, but there is a cycle. I believe our whole audit universe is looked at in terms of we assess the risk, we assess the potential tax evasion problem that may exist in relation to that type of business and that type of endeavour, and we assign our resources appropriately. So there is a cycle and there is coverage.

Mr Skarica: Finally, my perception of Finance is that they will try to target audits to businesses where obviously you can maximize revenue. The trouble with these small vendors is that an individual vendor won't get you a whole lot of money, but if you do audits on a few of them, then it spreads around.

Mrs Palozzi: The deterrent effect, yes.

Mr Skarica: One thing I would like to ask you is, when you do start to finally audit these people, will there be some publicity that you're doing it? You're not going to get much revenue from the audits themselves; it's industry-wide that it will have an impact, I would think.

Mrs Palozzi: We do have a publicity policy, as it were, in place now in that we do publicize convictions that have been accomplished through the court system on tax cases, and we have an annual or a semi-annual tax bulletin we put out that lists the number of convictions, the amount of tax that was discovered. So we are looking at in what ways we might beef up that publicity campaign. There's always an issue of striking the appropriate balance of the effectiveness, as you say, in a deterrent way, getting the message out there that it matters, and striking that appropriate balance with other considerations. So we will be looking at that, but there is a process currently in place.

Mr Chair, I was just going to say that staff have arrived from Oshawa.

The Vice-Chair: Okay. We'll give them a chance to catch their breath here.

Mr Steve Gilchrist (Scarborough East): Ms Palozzi, in addition to the people making deputations before the committee, I've had the opportunity to talk with a

number of our other members who are very concerned about the topic being discussed before this committee today. Over and above the usual suspects—the flea markets and some other unregistered vendors that we've already dealt with—there were a number of other categories that were brought to my attention. I was wondering what your reaction was in terms of the existing approach the ministry is taking and the potential regulatory changes that might be required if in these areas you believe your hands are tied.

One of them was coffee trucks. I certainly don't for a second mean to suggest it is a 100% certainty, but ask any policeman and he'll tell you they are, as a category, the largest contributors to the drug trade and various other illicit activities, not the least of which is a very overt campaign to do cash transactions and undoubtedly avoid the remittance of tax.

Secondly, temporary employees. I had a gentleman visit my office this past week who brought in documentation that specifically has the prospective temporary employee signing off that they understand they are contract employees and there will be no source deductions. You can bet your bottom dollar that for an individual who already knows there are no other government records being kept of their existence, there is going to be a far greater incidence of people who go the next step and don't bother declaring their income tax.

Thirdly, mail order. There is a large fishing and hunting shop in Oshawa that also maintains a mail order operation. They maintain it out of Quebec. I'm curious to know what our province is doing about assessing those goods that are consumed in Ontario even if they are sourced outside the province, and if we aren't doing something, why we're not, and what we would have to do to be able to send a letter to Barons' or any of these other companies and ask for a complete list of all of their shipments into Ontario so that we can send a follow-up letter demanding the sales tax that is rightfully ours.

I wonder if you'd share your thoughts on those various areas.

Mrs Palozzi: You've raised coffee trucks, temporary employees and mail order.

1020

Mr Gilchrist: Before you get to your comments, as a general concept, coffee trucks and flea markets and all the other things that we've talked about before share a common theme: the ability to have a cash transaction. Would it be appropriate to have as a regulation in the province of Ontario a requirement that there be a written receipt provided for any transaction for goods and services in this province?

The Vice-Chair: Just before you get into an answer, the time is up. Maybe as we go around they might address it through the other parties or back to the government side.

Mr Gilchrist: I'm sure Mr Pouliot would be happy to give up a minute or two of his time.

The Vice-Chair: We'll proceed with Mr Crozier.

Mr Bruce Crozier (Essex South): Good morning, ladies and gentlemen. I welcome this opportunity, at least at the outset, that we're able to talk about tax in general. My question also involves retail sales tax as well as other

taxes that are applied specifically to the distilled spirits sold in Ontario. We have a problem in that the distilled spirits industry in Ontario has made a number of representations to the Ministry of Finance with regard to what's perceived to be, and I think in actual fact may be, the unlevel taxes as compared to wine and beer. This has resulted in a lucrative smuggling industry, and therefore retail sales tax would be missed on those sales.

Can you give me some historical perspective as to why there is this tax difference applied to the three areas of alcoholic beverages? And do you have any comment as to what might be done in light of the representations that have been made by the distilled spirits industry to the Ministry of Finance?

Mrs Palozzi: I'm going to see if our tax policy people are here. No, I guess they've gone. I'm unable to provide a commentary on the historical perspective about why the differences in the treatment of wines and spirits. I think one of the things we would need to have here for the committee to be helpful in the whole area of alcohol is to have someone from the LCBO at this meeting as well.

I'm sorry I can't do that for you, but I can get back to you on it. I can certainly provide you some information on it.

Mr Crozier: Just to comment, it isn't necessarily the LCBO. They're a part of it, I'm sure, but it is the Ministry of Finance that determines the tax that is going to be collected on those spirits. Certainly with regard to retail sales tax, there is a smuggling problem, and I wonder if there's anything being done in cooperation perhaps with the federal government in the area of smuggling, because it's reaching the point where it's even suggested that the smuggled spirits coming into the country are equal to or, unbelievably, may even exceed those that are sold legally.

Mrs Palozzi: Roy Lawrie is going to address that question.

Mr Roy Lawrie: Roy Lawrie, assistant deputy minister, tax division in the ministry.

With respect to the smuggling issue and in relation to the presentations that have been made to your committee that I've read, particularly from the distillers and also I think from the restaurateurs—

The Vice-Chair: The Ontario Restaurant Association.

Mr Lawrie: Yes. They talk about the gallonage tax that the LCBO collects from licensed premises on spirits in particular, but also wine and beer that's to be resold to the public. That gallonage tax is the main tax that is being evaded through smuggling, obviously. If the smuggled liquor is actually being sold and retail sales tax collected from the customer and remitted to us, then obviously it would be of concern to the Ministry of Finance. But the LCBO is the one that's really concerned about the gallonage tax they administer. So the smuggling problem is mainly one of evasion of the gallonage tax.

Mr Crozier: Well, perhaps we can pursue that at a later date.

I note from the auditor's report in the area of cross-referencing information from other sources, management information system, the recommendations are given by the auditor, which I'm sure you're familiar with. In the area of cross-referencing information from other sources, the ministry's response is: "We agree. As noted in the

report, the ministry does have database matching plans." Also under the management information system, the answer again is: "We agree with the recommendation. Improvements in file selection are planned as an integral part of the new system."

I go back to my days as a internal auditor, when often the answer we would get in private industry from departments was, "We agree with you and we're working on it." Can you give us any idea as to what the plans of implementation might be? Is this the near future? Are we talking months? Years?

Mr Dario Savio: My name is Dario Savio. I'm the senior manager of audit in the retail sales tax branch. Perhaps I could give you a historic perspective in order to answer the question fully.

Database matching is a very important key element of both what we've done historically in identifying areas of non-compliance and where we propose to go futuristically. An example of what we've done in the past is obtaining databases from the liquor control board, from Brewers Retail and from the Ministry of Transportation, and we've been very successful in identifying significant areas of non-compliance with our legislation by using such third-party information.

We are currently dealing sensibly with Revenue Canada on the goods and services tax, matching our database to their database, which will not only benefit retail sales tax administration but will also, and probably to a much greater extent, benefit the administration of the goods and services tax and their attempts to increase their compliance level. That is the immediate objective that we're working towards because it would have the highest benefit both at the registration level for us and the federal government for identifying areas of non-compliance.

We are also working within the ministry system, called ITAS, which is the integrated tax administration system. We are trying to bring our databases within the ministry together, be it retail sales tax, corporations tax, employer health tax, and our motor fuels and tobacco tax databases. By providing more information to each of those branches, it will identify areas of non-compliance and incongruities between one reporting process and another. For example, with the employer health tax, if there is a significant contribution to employer health tax, meaning that there are a great number of employees within the company, there should be a correlation to retail tax sales as should show in reported sales. We see those types of benefits coming out of this.

So as far as answering the question of, "Is this long term, short term?" I would say it's currently advancing, and probably the first one that will come on, beyond the three I mentioned we already have, will be the goods and services tax database matching.

Mr Crozier: So it is probably fair to say this is ongoing?

Mr Savio: Definitely.

Mr Crozier: Yesterday in the federal budget it was announced—I haven't had the opportunity to go through it in detail. I take it the federal government is suggesting that there be a tax collecting commission, I think is what it was called, and that the provinces, with their tax collecting facilities, might want to take part in this so

there's one tax collector in the country. Do you see it that way and do you have any comment with respect to it?

1030

Mrs Palozzi: The intention, I believe, with the information I have to date, is that the federal government wishes to take their Revenue Canada operation now and create an agency, I think the Canada Revenue Commission, something like that, so it will be, I assume, a crown corporation of some sort, which will allow it to extract itself from the civil service rules etc, and allow for the funding of the operation in a way that enables perhaps adequate funding for some of the areas they wish to invest in, such as increased audit staff or other things.

Their proposal, in the throne speech and yesterday, essentially says, "That's the first step, then, just as we do now as a department of the government, a ministry, we want to deal with provinces"—maybe they're indicating more aggressively now—to enter into discussions with the provinces around what sorts of agreements to eliminate, what they call duplication of administration, and enter into discussions with the provinces around what is possible to get agreements on; for instance, we have tax collection agreements with the federal government on personal income tax. There's a range of possibilities.

Our general response is clearly one—of course we're concerned about duplication of effort. We haven't had any indications yet about those conversations, how they will take place, where they will lead and so on, but I'm sure we will be part of those discussions.

Mr Pouliot: I listened intently to other members of the committee, who started the ball rolling predictably, methodically, with the small hot dog vendor hypothetically potentially being in default of remitting the RST, and then we moved on to Mr Gilchrist who stunned, shocked the committee by bringing the speculation to what he sees as a reality. He wasn't too concerned that some coffee trucks were sideling for drugs, or sideling for coffee; he seemed to be more concerned that they weren't remitting the tax. I'll ask him, off the record, whether he wished to have the sale of illicit drugs taxed in this province. Or maybe he would wish to move away, because that's quite a dilemma, from the retail sales tax and rid ourselves at the same time of the collection of that tax and go to a more fairer and a more progressive tax, that of personal income tax, where wealth, not consumption, is used as the real and true determinant.

Your text makes mention that \$9 billion out of \$46-47 billion, roughly 20% of what the provincial government takes in, is from the retail sales tax. Could you tell us, as an estimate, if all the eligible retail sales tax was to be collected, would we go to \$11 billion, \$12 billion? What is the estimated lost opportunity under RST?

Mr Peter Spiro: It's a very hard thing to estimate. It gets down to the uncertainty about the overall size of the underground economy. Estimates of that vary. Statistics Canada has estimated that it's probably in the range of 4%-5% of GDP. Others have estimated that it's as high as 20%. There is a variety of means of estimating it, such as surveys of consumers, their responses as to what they say they're doing. You can look at the amount of cash in circulation relative to what you would expect if government statistics on total GDP were correct, and from that

discrepancy you can try to infer the size of the underground economy. I would say that tends to indicate probably the underground economy is in the range of 8% to 11% of GDP.

Even if you come to an estimate of what is the overall size of the underground economy as a percentage of GDP, you can't go directly from that to how much sales tax is being lost, because you don't know specifically where, in what sectors of activity that evasion is taking place. For example, in Ontario it's widely surmised that in the home renovation area there's a lot of underground activity, and that's an activity which is not legally required to pay Ontario provincial sales tax.

Mr Pouliot: Thank you very kindly. I'm very impressed. We go beyond privileged; we're blessed to have that knowledge. I'm simple folk, sir, and I will rephrase the question. Perhaps I didn't do a good job of asking the question. I apologize.

We now get \$9 billion in provincial sales tax at the present rate of 8%. We estimate this. We feed the data bank this and this and this. If in a dream world, hypothetically, we got everything we are entitled to, would it be closer to \$11 billion? Would it be closer to \$11.5 billion, to \$12 billion, to \$13 billion? Does anyone have an idea? If we don't have an idea, we sure as heck don't have an idea about the size of the underground economy. How much is our lost revenue under RST?

Mr Spiro: I guess the thrust of my answer was that there's a great deal of uncertainty about the size of the underground economy, so it would be futile to try to say whether the legally required amount of RST is \$10 billion or \$11 billion. There would be just no precision to that kind of estimate.

Mr Pouliot: Perhaps the focus would be somewhat clearer. The people who are in default—for instance, a shop operator collects so much RST, has to do the remittance. I don't impute motives, say they are using it as a cash flow for their operations, but how many are in default in terms of remitting on time? What would be the percentage?

Mr Lawrie: I don't know if we actually have a percentage expressed as a percentage of active tax roll, but it's certainly true to say that our accounts receivable are rising. There are reasons for that. We're not alone in experiencing that at this particular time. The federal government is too, with GST. Their accounts receivable are rising and so are the other provinces'. I guess it's a reflection of financial circumstances, economic circumstances in the economy at the moment.

1040

Mr Pouliot: I'll tell you my real life. I make \$42,000 at my job representing the people of Lake Nipigon. I'm a T4 person. I get a notice every year and it says "Amount due" or "Please pay." Then, being of moderate means, sometimes I really have to have another look at it because it's quite stringent, quite demanding. I make a payment to Revenue Canada and they charge me an interest rate. If I were a small business person and I was in arrears in remitting my retail sales tax—in other words, collecting the money from the one hand and giving it to organized Revenue Ontario on the other hand—is there a

penalty? What happens to the small entrepreneur who is in arrears in the retail sales tax?

Mr Lawrie: There would be a late filing penalty, a late payment penalty if the return was filed on time but no payment made, and of course there would be interest charged. I'm not sure exactly what's behind your question.

Mr Pouliot: Let's say a person operates a car dealership, Ford, whatever; it can be any name brand. You go and buy a car from that person, so you pay retail sales tax. Let's say that person because of lifestyle, other commitments, was not in a position to remit the sales tax. Do we throw the person in jail?

Mr Lawrie: No.

Mr Pouliot: Why not?

Mr Lawrie: Our act's structured to use penalties as a deterrent: a 10% penalty for tax collected that isn't remitted, 5% for tax that's due by a taxpayer, and also an interest charged to reflect the use of the money that isn't remitted that ought to be. Collections branch follows up, arrives at an evaluation of the problem facing the particular vendor or particular taxpayer, and if there is genuine temporary trouble, in collections' view, it arranges that payment be made over time, as long as current payments are kept up to date.

Mr Pouliot: If I beat a path from my place of business to the bank, if I have good collateral I can go to the bank and get a demand-plus-one loan. How quick are we at reacting and matching so that in lieu of going to the bank and get demand-plus-one, I could possibly use in the interval to meet the payroll, let's say, the RST money to provide a cash flow so I can meet my obligation? How good are we at competing?

Mr Lawrie: Obviously, with trust funds, as RST is, the vendor doesn't actually pay the tax itself; they collect it from their retail customers and are supposed to turn it over to the government. Our collection efforts are much more stringent on such trust funds—a commodity tax is another example: gasoline, tobacco, fuel tax—than they are where, for example corporations tax, the taxpayer itself is paying tax due by it, the rationale being that the offence is much worse if you are, if you like, inverting the government's money to your own use than it is through perhaps not being able to pay your own taxes at this time. There is faster action on trust funds like retail sales tax collected from customers and commodity taxes than there is on other taxes.

Mr Pouliot: But you can't foreclose for arrears.

The Vice-Chair: You can get back to that a little later; there's enough time to go around. I'm wondering if Ms Palozzi would like to respond to that three-part question posed by Mr Gilchrist in the other turn.

Mr Lawrie: Perhaps I could handle Mr Gilchrist's question on what he referred to as temporary employees, and my colleague Mr Savio will respond on the other two.

This is a problem for us in the taxes we administer, in employer health tax mainly, because we don't administer income tax but there are very clear income tax implications in the situation you outlined. Yes, it is a current problem in administration of EHT, and we think it's largely because of the pretty aggressive actions by certain

consulting firms in seeing that it's worthwhile fighting EHT on employment-agency-type payments, the reason being that in the Employer Health Tax Act there isn't a definition of "employment."

The issue here is differentiating in a legal sense between a contract for services, in which case EHT doesn't apply, or a contract of service, in which case EHT does apply. Because there's no specific definition for it in the Employer Health Tax Act, we rely on the common law definition. There have been several cases, and there is a basic underlying common law rationale for differentiating between the two types of contract, so we use the common law. We've got an interpretation bulletin in preparation, which we are about to issue, explaining our position to the taxpayers.

In the meantime, we have several assessments, probably well over a dozen assessments, of employment agencies on this very issue. They're at the notice of objection stage, but given the amounts of money involved, about \$15 million in employer health tax currently involved, I would expect this will go to the courts and we'll get some jurisprudence.

The last thing I want to say is that part of the trouble for the dispute is that Revenue Canada, in its determination of what constitutes an employment contract, administers three different statutes: one for CPP, one for what's now called employment insurance—it used to be UI—and one under the Income Tax Act for employee source deductions. They've all got different definitions of what constitutes an employment contract. That is part of the problem. We don't have that particular problem. We don't have a definition in our particular statute, but this will be resolved through the courts, if not through clarification of the act.

Mr Gilchrist: Thank you, Mr Lawrie. I am genuinely pleased to hear that progress is being made on that, but I must say I'm reluctant to have courts make the legislation in this province. I think it's one of the biggest downfalls of our modern society that unelected judges are doing that sort of thing. I wonder, instead, whether we can be of some assistance in terms of crafting regulatory change or an entire new bill, if that's required, to give you that sort of definitional support. If we can avoid going to the courts, for the expense if for nothing else, and to accelerate your collections—there are more than 15 temp companies out there, so rather than wait before we go back in and reassess all of them on the basis of a court case that could go on for many years, I would be far more eager to see us simply give you what you need in terms of the tools to deal with this very quickly.

Mr Lawrie: In response to that, obviously our main concern is taxpayers and making sure they're not in any doubt about when to pay tax and when not to. Hence, our interpretation bulletin is going to go out to them. Perhaps it would be a matter for the minister in his upcoming budget to determine whether legislation change is required, but I'm sure the minister would value the advice that came in.

Mr Gilchrist: Would it be possible to get the interpretation bulletin sent to the MPPs as a matter of course? That's something I miss since selling my business. I no longer see what the department is up to.

Mr Lawrie: Of course.

Mr Gilchrist: I appreciate that.

In terms of the mail order aspect, could somebody deal with that? I know there is an initiative at the border to collect taxes when people cross and are physically there in the presence of their goods. I'm wondering if there is a double standard for mail order, and if so, why we allow that.

Mr Savio: The issue of mail order catalogues is known to us. There is some concern there. We have been working with some members of the industry. The law in Ontario is that the consumer must pay the tax if the transaction takes place in the province. If the mail order outfit is legally located out of the province, under our current legislation we have no authority to go outside the province. We do, however, monitor the industry quite closely, because there has been a great deal of concern expressed to us to make sure there is no legal presence by the mail order firms in the province. If there is, we have actually issued assessments against them.

1050

You had raised one example earlier, if I understood the details, of an establishment out of Oshawa that operates a mail order firm out of Quebec?

Mr Gilchrist: Yes.

Mr Savio: Under our law, if that firm has a presence in Ontario the transaction has taken place in Ontario and the tax is collectable by them and payable to the province.

Mr Gilchrist: It's my understanding they are not asking consumers to pay the tax, so unless they are voluntarily giving up 8% of their profits, which I think we could all assume is not likely to be the case, I must infer we are not collecting the tax. I'm also aware there are at least 14 other mail order operators just in that industry alone, some of whom fall into that same category where it is a very overt means to bypass.

In fairness to them, they are in turn competing with American operators conducting mail order operations able to charge X dollars for a fishing lure without the tax. My question is not meant to beat up on an Ontario operator that tries to circumvent the law; it's meant to level the playing field so that anybody shipping a fishing lure to be used in Ontario is charged the same tax as they would be if they walked into a Canadian Tire store and bought it off the shelf. I mean, fair is fair. Is this something on which you would look to the budget or to the Finance minister, or to the Legislature, to give you the tools that would allow you, either via Canada Post or some other mechanism, to charge the appropriate tax at the border?

Mr Lawrie: It would certainly be worthwhile to talk to Canada Post because it has an existing arrangement for mail order deliveries collecting the GST. You are charged an extra \$5 if you order from the States, for example, for Canada Post collecting the GST amount for the federal government. At least in theory it would be possible for the RST to be collected in the same way. The trouble with a lot of these mail order purchases is that there's not much RST involved. Clothing's quite typical of goods purchased by mail order. We've got certain exemptions—for example, for children's clothing—which would probably cause some trouble for Canada Post as opposed to

the rules that apply for GST. However, perhaps this could be resolved.

The basic underlying principle is that a province can't levy an indirect tax, and unless there is what is called situs in Canada—the American term is nexus—of the seller, there is no obligation. We don't have jurisdiction over the retailer. We do, of course, try. In fact, we are very avid collectors of all mail order catalogues. We write to the out-of-jurisdiction supplier and say, "How would you like to register voluntarily for RST?" Some do; some don't. Some of them are now using post office boxes in Ontario. In fact, unless you look very closely at the small print, you don't know they're not an Ontario company. Perhaps the time has come to look at tidying up the law to see whether we can establish situs for companies like that.

Mr Gilchrist: Would a post office box not be a presence in Ontario?

Mr Lawrie: Under current circumstances, no. We have a legal opinion.

Mr Gilchrist: Really? So doing my selling via a post office box instead of doing it via a building, where I'm also paying property tax and everything else, I actually get a better break.

Mr Lawrie: That's correct.

Mr Crozier: I can certainly understand what prompted Mr Gilchrist's concern with unelected judges making decisions. As we all know, with the public service, when the court made what was an appropriate decision with regard to pensions, the government then said, "We don't like that, so we'll simply change the law," and has exempted itself, like no other group in the province of Ontario, from certain pension restrictions.

Having said that, I want to move on to a concern I have with regard to provincial sales tax on accounts receivable. As I recall, there's a 60-day period in which you have to identify accounts receivables that are uncollectible, in which case you can list those and recover the tax you remitted to the government and will not be collecting. The problem with that, and I'd like your comment on it, is that in most cases 60 days is too short a period to know whether an account is uncollectible, because many are running, as a matter of course, 30 or 60 or 90 days. Would it not be fairer that when a business declared for its financial records, for that matter, that an account is uncollectible and actually wrote it off, at that time, notwithstanding the number of days that have passed—for customers that have been good in the past, you might even wait a year. Would the time at which they're written off not be a fairer time at which a business could identify the amount of provincial sales tax and recover it from the province?

Mr Savio: The way the system works now, it's up to the vendor to determine when the account becomes uncollectible. The vendor has the control over the determination and the time frame when it becomes recognized as doubtful. The time kicks in after he has determined it's uncollectible, so there is a fair degree of latitude for him.

Mr Crozier: I'm about five years out of date, so that's why I needed your help.

Mr Savio: We've also simplified the system for the vendor, that they can either apply for a refund or make

an adjustment on their monthly return, so in essence they would have the funds available immediately.

Mr Lawrie: Subject to later audits, of course.

Mr Crozier: That's great. I appreciate that that was done. It was always a little bugbear when I was in the business.

Mr Lawrie: One thing I recall recently on that line is that I think our legislation now refers to being able to claim it for retail sales tax purposes when it's written off for financial statement or income tax purposes. But it may be appropriate in certain instances, where, for example, the customer has gone into receivership or is in fact bankrupt, that an earlier claim be made. I think we're looking at changing the practice, which we'll announce in the normal way through our guides if we feel a change is appropriate.

Mr Dominic Agostino (Hamilton East): To go back to Mr Pouliot's point, you don't have a mechanism or system at all within the ministry to do at least a best-guess estimate on the amount of revenue that may be lost, based on previous projections, what your projection would have been based on sales? There isn't any sort of mechanism within the ministry to do that?

Mr Spiro: The basic problem you have to get back to on this is an absence of information, because people are lying; when they file their returns they lie about how much they sell. What you're saying would make sense if there were some kind of central agency that knew the total amount of sales in the economy and you could then compare that to what the individuals are reporting. But where the aggregate numbers come from, they're just built up from the tax returns of individual tax filers.

Basically, if people are lying, the only way you can do that is make some kind of guess, point to each individual one and say: "How much is he lying by? How much is he understating his sales by, 20%, 50%?" You can do that by detailed auditing. If you did a saturation audit on a scientific random sample basis, you could build up an estimate. But in the absence of that, the closest you can come is to look at the discrepancy on cash in circulation. You have to realize that people, for their own financial incentive, are doing their best to hide what they're doing. They're using cash transactions; they lie to the government about how much they've sold. We're not mind-readers. We can't deduce what these people really did sell.

1100

Mr Agostino: On the other hand, if there was an increase in a year, a year and a half, there was some sort of modest increase or an increase in the revenue, I presume it would be just as difficult to attribute that to a crackdown on the retail sales tax or the fraud that is occurring in that area.

If we'd say next year the amount collected increased by a certain percentage, would you be able to pinpoint and say part of that is a result of initiatives to crack down? How are you going to be able to gauge how successful any efforts to crack down on this type of fraud are going to be and how can you distinguish between that and growth that would have occurred or sales tax increases that would have occurred anyway?

Mrs Palozzi: You can track audit activity and what that audit activity yields.

Mr Pouliot: But that's gone down by 21%.

Mrs Palozzi: You can differentiate parts of it. In terms of your reference to a crackdown and follow-up, you can track.

Mr Agostino: So you can't tell us how much approximately is going unclaimed but you're going to be able to tell us how much may be claimed as a result of efforts to get rid of some of the—

Mr Lawrie: The problem is, even with the statistical sample of our tax roll and doing a thorough audit of that statistical sample, you can't audit the ones who aren't on your tax roll, the non-filers, so you don't get a complete picture. It would be deficient even from that point of view in getting an accurate picture of the entire underground economy.

Mr Savio: There are a number of indicators we would look at. For example, we track revenue per hour. We track number of audits that we've conducted and how many have resulted in a change in assessment. Theoretically, as the number of audits conducted generate reassessments, that would show that non-compliance is going up. If that peaks and dips, then that would indicate that the level of non-compliance, because of various administrative presences, would affect that.

The other point on gauging the underground economy, this is a concern not only for us but also for Revenue Canada and the IRS. It's not a precise science. Everyone is trying to come to terms with the actual measurement of it. We have signed a memorandum of understanding with Revenue Canada because of our concern and their concern, trying to gauge the level of the underground economy. That is one of the commitments we have made to each other, that we will look at trying to come to terms and measure the extent of it.

Mr Agostino: Just to wrap up, I find it somewhat surprising that we seem to have at least an art that finance develops in, for example, when it comes to talking about fraud in the welfare system. Although 3% to 4% is the fraud that is acknowledged, at least as seen through the system, the government is content, however, to estimate a much higher number based on whatever calculation they pull out and Finance is able to say, "Here's what we think in the minister's office we can say to the minister as to how much we believe is lost in welfare fraud." We don't seem to have much of a problem to come up with those numbers that are much higher than the actual numbers are, but we seem to have a hell of a time trying to come up with the sales tax. I just find that a little interesting, to say the least, and a little bizarre.

Mr Savio: I would think, not to get on a tangent on the welfare system, but there you are dealing with a known quantity, you have 100% of the universe that you can measure, whereas the tax administration elements of the underground economy are not part of the universe. So we're trying to extrapolate, based on known registrants, what the activity of non-registrants is and that's where we get into—

Mr Pouliot: Whatsoever. I can't understand that, but anyway.

Mr Kormos: Chair, briefly, and I know you won't recall this because my tirades in this regard preceded

your being sent to Queen's Park, they were with respect to things such as the way orange juice would be profiled here at Queen's Park. Petty? You bet. But I come from a part of the province where apple farmers and grape growers are desperate to see their product consumed by Ontarians, and it used to really rot my socks that here in the Legislative Building we'd be profiling non-Ontario produce, Anita Bryant having become irrelevant since and certainly not helping the issue.

But I noticed today, believe it or not, this carbonated natural spring water that we're providing here at the Legislative Assembly comes from Piedmont, Quebec. Again, I have no quarrel with Quebec or any of its produce, but here in the provincial Legislature you'd think—and I can tell you that from my very own part of Ontario down in Niagara region there are sources of bottled water—

Mr O'Toole: You shouldn't drink it.

Mr Kormos: I'm not drinking it, but there are sources of bottled water. I would expect that producers—we're talking here about issues very relevant to Ontario's economy—there are producers here in the province of Ontario who would dearly love to see their product, be it spring water or carbonated water, consumed at Queen's Park. I just raise that with you. I think the issue is really quite symbolic in terms of a government in Toronto that indicates that it's manufactured in Toronto.

Mr Pouliot: I thought the head office was in Atlanta.

The Vice-Chair: I guess we go from Coca-Cola and then the coffee from Brazil and this could go on forever here.

Mr Kormos: No, no, no, but, Chair, if you think you can—

Mr Pouliot: Brooke Shields will call you this evening.

Mr Kormos: Chair, if you think you can dismiss that in the face of the farmers and the producers that come from Niagara region, you're sadly mistaken. They're concerned about these sort of things, as concerned as wine producers are about Air Canada selling French wines.

In any event, having said that, and I really say that in seriousness and I'm not trying to be merely provocative, I'm interested, though, in what seems to be a really circular sort of argument here. You talk about things that are tantamount to counting the towels in a house of ill repute to determine the extent of trade, and what the income indeed was over a period of time, a most unscientific exercise at the very best—perhaps some use no towels, perhaps some use two or three—so in itself a very imprecise exercise.

I'm old enough to remember the origins of retail sales tax in the province, with the Conservative government of course, and reflect on the fact that it's the most regressive of taxes. First of all, how much does it cost to collect the PST that's collected now? What is the cost, and I suppose this again is akin at least to counting the towels, because if I'm going to ask you how much it costs to collect the uncollected tax, it's going to be hard to determine that, because we don't even really know what it is yet, so how can we talk about how much it costs.

In view of that, why aren't we taxing those things? As far as I'm aware—and I'm from Welland—taxation has two primary purposes: one is to raise revenue, the other

is to regulate consumption or a particular activity, and that's the rationale for things like gasoline taxes, for instance, sin taxes, tobacco, liquor, among other things.

Why are we taxing things that cannot be effectively taxed and why aren't we taxing things like wealth, by way of imposition of a wealth tax which seems to be reasonably readily ascertainable, recognizing of course that some people are still going to be inclined to keep their money under their mattress, but the vast majority of people are going to have—because you see, gasoline tax is relatively easy, because it's monitored. It goes through a regulatory system, it's sold through the pump. Liquor taxes, tobacco taxes are relatively easily monitored.

Once this government introduces video lottery terminals, short of the corruption and illegal operation of terminals that is going to accompany it, by and large, the technology is such that, as compared to the old days when laundromats and any coin-operated equipment was difficult to tax because it was difficult to monitor the flow of money, it wasn't metered—why are we pursuing areas of taxation that in themselves do not control activity or are difficult to generate revenue because of the difficulty of taxation?

If the motive is to control activity, then I understand we've got to focus on that, if we have a real commitment to controlling that particular activity. Why aren't we taxing the things that reflect truly the wealth of a particular taxpayer and those things which can be fairly monitored or effectively counted?

Mr Lawrie: Could I just answer part of your question at least? The administration of retail sales tax on an estimates basis costs \$40 million a year. The reason I say "estimates basis" is that currently in the estimates there is no provision made for rental, for use of government buildings, so there's nothing in there in respect of overhead for buildings. That works out to roughly 33 cents for every \$100 collected. For example, GST is very much higher than that, I think largely as a result of having a very much larger tax roll and a very much larger refund operation. Their costs are about four times what ours are.

1110

The Vice-Chair: Mr Pouliot.

Mr Kormos: One moment. That was a response to part of my question.

Mr Spiro: You could write thousand-page books on the other part, but basically the purpose of taxation is to pay for the cost of running the government and you have a variety of taxes, you have a mix of taxes. We have taxes on income, we have taxes on sales of various things. In some instances, as you mention, there are sin taxes that are specifically meant to deter a particular kind of activity. But economists generally recognize that there are advantages and disadvantages to all kinds of taxation. Among other things, for example, with wealth tax, certainly for some people it's easy to measure their wealth. It's also easy for them to move it out of the province.

Mr Pouliot: Oh, yes.

Mr Kormos: Frank Stronach is a master.

Mr Spiro: That's just an example. Again, with income tax—

Mr Kormos: He's a good one, isn't he?

Mr Spiro: With income tax, there's a difference between retail sales tax and income tax. Income tax has a more direct effect on the incentive to work, on the degree to which people are willing to work in the legal labour force and so on. So it's generally felt that you ought to have a mix of taxes in order to level out the various pros and cons of different kinds of taxes.

Mr Pouliot: Thank you very much. A thousand pages—the book I would write would only have two words and no one would read it. One would be "use" and the other "abuse." But if we could spend more than a thousand pages tracking or tracing the K.C. Irvings of this world, as a simple person, I'm intrigued and fascinated by the ability of one to go to the south, to the sunny climes—it was only lately that I've learned how to spell Liechtenstein—to be a Canadian when it serves your purpose and, as a matter of convenience, to stop being a resident when it serves a greater motive and fulfils a greater motive and serves a definite purpose and establish a trust company in the United States, then buy long-term bonds in Canada and have to divvy those coupons clipped by the trust company and remitted. It's quite intriguing and it calls for good reading.

On the number of audits, I have two questions. You mention that the Provincial Auditor review of coverage since 1988-89 discovered that while the number of auditors has remained relatively constant, the number of audits has decreased by 21%, and then we lose relevance to my question because we see yet the vendors, the client groups have increased by 10%. If you have the same number of auditors, why, in a broadly summarized form, have the number of audits decreased by 20%—21% in fact?

Mr Savio: There are a number of reasons, but the most evident one is if you look at the change in number of audits resulting in assessment. Very simply, if you have a great number of audits where there is no reassessment, the hours expended to conduct that audit are generally quite low. Whereas if the number of audits go up—

Mr Pouliot: More complex.

Mr Savio: —they become more complex, to use your word. They take more time and that shows in the Provincial Auditor's report, that while the number of audits have gone down, the amount of tax identified per audit has gone up significantly.

Mr Pouliot: My last question is, we notice in the paper, the Globe and Mail has a financial section, the Report on Business, and it, as a mandate, reports to us periodically what they get from StatsCan, the number of personal and mostly small and medium-sized business bankruptcy, which they say when it comes it to us, the small consumer, that we're paying for the excesses of the 1980s and then our plastic obligations are at an all-time high, but they also point to a record high number of bankruptcies for small entrepreneurs.

In the pecking order, Harry and Jane Smith operate a small store. They underestimated their cash flow and they're on the hook. They go bankrupt. You are on the creditors' side by way of your RST, the retail sales tax. Then Gilles and Jane Lunchpail paid from their labour,

handed it to them. Where are you in the pecking order? Because I, Joe Citizen, sure want to get my pound of flesh out of those people. Do banks get paid first? I don't know.

Mr Lawrie: Yes.

Mr Pouliot: Okay.

Mr Lawrie: There was a change in the federal Bankruptcy Act a few years back and we lost our preferred creditor status that we used to have; all provincial crowns did. There is a remedy to that which we have implemented. In the case of our tax debtors, if we register personal property liens or real property liens, it gives us back secured creditor status and we've in fact implemented that through changes that were made two or three years ago by the former government.

There's one additional thing I would like to add to my colleague's answer to your first question. The social contract legislation of course did affect the number of available hours the auditors had to conduct audits. Previous to the social contract, they were given an option of getting paid overtime or getting equivalent time off. Under the social contract, their getting paid overtime option is taken away—

Mr Pouliot: Oh, I see.

Mr Lawrie: —which results in an overall less amount of available audit time, therefore fewer audits with the same number of auditors.

Mr Pouliot: Okay. Thank you. Now that the social contract is about to end—

The Vice-Chair: Okay.

Mr Pouliot: No, no. Excuse me.

Interjections.

The Vice-Chair: You'll get another opportunity, Mr Cleary. Mr O'Toole.

Mr O'Toole: Thank you very much for being straight out. You've answered some of my questions, but I do want to go back to a general kind of feeling that the present tax rate or levels of the tax or presence of tax. Is this serving some form of driving the whole tax system underground, objectively? Like the more we tax and audit and regulate, is that what's driving the economy underground, or is that a misrepresentation?

Mr Spiro: There is some evidence from econometric studies that higher tax rates lead to increased evasion. Again, looking at the indicator I mentioned before, the amount of cash in circulation above and beyond what you would expect based on the amount of reported expenditure, there is a positive correlation between that and tax rates.

Mr O'Toole: Could I turn that into an assumption that if you were to lower the tax, you may increase your revenue? That's an important fundamental theory or theme, both for the province and indeed for the country, to look at: by reducing rates of tax that you will indeed increase revenue. Could you comment on that and the experience in the United States and perhaps—

Mr Spiro: There's a well-known Laffer curve theory that suggests that, and it would certainly be true that if you were in a situation of extremely high tax rates one could conceive of that being the case.

The empirical evidence for Canada and the United States suggests that we're not quite there yet, and there

are of course a variety of issues around that. It's not just the evasion. You also have the effect of tax rates on incentives to work on consumer spending, on economic activity in general. When you run an income tax change through standard econometric models for example, they do tend to show that you have a fairly substantial effect on overall economic activity. Some of them will show that after a lag of about five years for all levels of government in Canada as a whole, because of the stimulus to economic activity when you cut taxes, you do end up with as much revenue as you had before, but the problem of course is that it's shared among the different levels of government, so if just one government cuts taxes—for example, if the Ontario government cuts taxes, the Ontario government isn't going to get all that extra revenue. A large chunk will be shared by the federal government.

1120

Mr O'Toole: Yes. It's shared in an unusual spreading in the economy, and really that's a fundamental theme within our particular party's position. I would contradict what you say. I think the information that I read says that we're the highest-taxed jurisdiction in the world or one of them.

Mr Spiro: We are the second-highest personal income tax rate in North America, but we're still quite a bit lower than many other countries.

Mr O'Toole: Of the retail tax and the other taxes we're—

Mr Spiro: Even when all those things are taken into account, we're well below the highest-taxed countries in Europe.

Mr O'Toole: When you look across the whole spectrum of the levels of tax and perhaps the employer-based taxes, do you see that as a prohibitive aspect of growth or a barrier to growth in the economy?

Mr Spiro: That's right. Payroll taxes, in general, are found to be—

Mr O'Toole: Are a disincentive.

Mr Spiro: That's right—are found to be one of the major disincentives.

Mr O'Toole: In fact, it's probably the emergence of the underground economy, whether it's in temporaries or contract employees, the more the tax that's imposed on the employer, whether it's through direct linkage to workers' comp or whatever kind of tax or cost, they're inhibitors to growth. They drive the economy underground.

Mr Spiro: Definitely. Again it's the two aspects. There's the one that's the underground and also the fact that companies that operate legally and pay whatever tax they're required to, for them it's a disincentive to hire workers because—

Mr O'Toole: You mentioned that the drywallers or the home renovation group seem to be one of the most active underground. If they were above ground, they'd almost be out of business because of the rates of WCB, employer health tax, all the rest of the kind of regulatory regime that is a disincentive. It's by design and by regulation, not just in the tax sense, and I'm perhaps being unfair because you're in the tax area, but I'm trying to make it clear that that's indeed why I ask it in

a question. But do you see the non-compliance going up? Has that been a phenomenon over the last number of years?

Mr Spiro: Again, these econometric estimates that look at the discrepancy between cash in circulation and what you would expect if reported economic statistics are correct and what you're actually seeing, do indicate that the underground economy has grown.

Mr O'Toole: So that those are some reasonable assumptions I've made.

In response to some of the comments by the auditor's report, there was one that suggested perhaps you spend a fair amount of time on the large catchments, the large and medium-sized businesses. They account for perhaps 50% of the total revenue on that RST stuff. The fastest-growing segment, we're all told, is the entrepreneurial sector. The big business, the Magnas etc are a thing of the past. Technically, their employment rolls are going down. What strategy have you got in place to deal with the small or medium-sized businesses?

Mr Savio: As far as the large vendors, they currently contribute 58% of the retail sales tax revenue and we apply 50% of our—

Mr O'Toole: Resources.

Mr Savio: Actually if I could go back, the coverage level on that population is about 50%. Our resource base is somewhat less than that. We are currently in the process of recruiting additional auditors, and the vast majority of auditors who are being hired will be dealing with the small vendors.

Mr O'Toole: That's really responsive to—some of the themes within the auditor's report suggest that—I believe what he was saying is that there's more compliance in the large, formalized organization. Would that be a fair—

Mr Savio: It depends how one measures compliance. Perhaps the nature of compliance differs from one to another. A very simple error with the senior corporation could result into millions of dollars, so it depends. If you consider that complying or not, then fine.

Mr O'Toole: With all the electronic abilities today, electronic audits and looking at the regulations that you would be regularly updating, and I can understand that if you miss 0.5%, you're going to lose a lot of revenue.

But I guess really the point I'm trying to make is that everything I see, a rising underground economy, an unregulated-type portion of the economy that's being driven by the needs of individuals taking responsibility for their lives today, I believe that the greater amount of resources should be spent in exactly the reverse area. Because of the small, unregulated sector growing rapidly, I think we need to get a handle on it seriously because large corporations are downsizing. When they're downsizing, they need to have clear guidelines and you need to do audits for sure, random, statistical kinds of things that tell you whether that sector's in line or not, that's sufficient, but you're spending 58% of your resources in a sector that has a tradition of performance. You know where the non-conforming groups are.

Mr Savio: Actually 58% of the revenue is derived from the larger—

Mr O'Toole: How much are the audits? I thought you said 50% of your audits—

Mr Savio: No, less than 50%—

Mr O'Toole: Oh, really.

Mr Savio: —of our resources, and that is based on historic numbers. We are currently in the process of recruiting auditors, which will result in our resources aimed at the larger vendors probably being in the neighbourhood of about 30%.

Mr O'Toole: Again, in response to the Provincial Auditor the government took the initiative to entitle you to employ another 50 auditors, I think it was. Where are you in that process? I think you've answered part of it. Where will that resource be allocated?

Mrs Palozzi: We have in fact placed ads, following a government process internally. I think about a month ago they appeared in the government Topical and it takes a little while to embark on the recruitment process. Dario might be able to—

Mr Savio: If I could give you a little more detail. We had started recruitment within the government. It's a restricted competition at this point in time. Of 168 applications we received, we're interviewing 86 people and we were three quarters of the way through the competition process and then the strike commenced, which means we had to stop the competition.

Mr O'Toole: It stopped a lot of things.

Mr Savio: It stopped a lot of things, yes. As soon as the strike terminates, we will commence our process for the finalizing—

Mr O'Toole: That's the internal process.

Mr Savio: Yes. We expect that we will recruit probably a third of the number of auditors internally, hopefully more. Then the plan is to go outside.

Mr O'Toole: You'll be allocating those in some proportion to this new entrepreneurial sector to get it more in line, I gather.

Mr Savio: That is the strategy, that the 50 auditors who are being recruited will all be put to work on the small vendor population.

Mr O'Toole: Good. I appreciate that because I think if we all work together, you want to avoid the whole thing of being a kind of a regimented regime and prohibitor. Do you facilitate new business in any way through getting them started through the maze of tax collection, retention, remittance?

Mr Lawrie: Yes, we do. We used to have a program that we would like to renew called the new vendor assistance program where in the first year of a new business, because we have roughly through retail sales tax 60,000 of them a year, we found when we had the resources to run that program before—they weren't audits. They were friendly service visits, "Are you having any problems with retail sales tax?" and perhaps giving them copies of the guides that explain some of their questions. They do get a kit when they register and depending upon the nature of the business, the kit varies, but it's helpful to talk to a live person rather than sometimes reading our publications or even lifting the phone.

Our plans are to see if we can arrange this jointly with the federal government with respect to, they have the same problems with GST. If we're able to hold these visits and exchange results of these visits, we both thereby gain leverage. In other words, we're not duplicat-

ing going to the same business twice, once for GST and once for RST.

Mr O'Toole: Okay. I have a couple of quick ones if I have a minute.

The Vice-Chair: The time is up. You're beyond your time. The Provincial Auditor, Mr Peters, would just like a point of clarification.

1130

Mr Erik Peters: Just in order to help out Mr Savio and Mr O'Toole regarding the questions, some of the statistics you just gave us pertain to the new regrouping of vendor categories that you have. Is there any statistic that you could help us out with? For example, at the time we did the audit we felt that the large and medium vendors made up 50% of the revenue base and the small vendors 50%. You're now talking about 58% being the large and medium vendors. Hopefully, this afternoon we will be in a position that the committee will write its report and I think it would be worth while if we had agreed-upon statistics on that. Would you have a listing or could you walk us through those stats?

Mr Savio: I don't have a listing, but a point of clarification is that when you conducted your audit, we had the A, B and C vendor categories. We have redistributed those three into two, the A and B. The former C category was redistributed, so that some that were previously considered small vendors have been moved up. That's why there would be a discrepancy of the 8%.

Mr Peters: Right. It's just something perhaps for the researcher to bear in mind when we write the final report, because the numbers do come out different now.

Mr Crozier: You've been very helpful this morning, folks, but I guess there's one main reason why you were brought here—and I'd like your comments—and that is the suggestion that retail sales tax be collected at the wholesale level, more particularly where it comes to the spirits and tobacco and that we then might, if I may suggest, recover or better control our collection of taxes if it were done at that level rather than retail. I'd like you to take your time to comment on that, please.

Mrs Palozzi: Roy's going to address that question.

Mr Lawrie: First of all, I think you have to differentiate between tobacco and alcohol, the reason being that, as from its name, obviously retail sales tax varies with retail price. The problem with alcohol is that depending upon the nature of the establishment, exactly the same drink can have radically different prices. So quite apart from constitutional problems in collecting a retail tax at the wholesale level, you've got real revenue problems in determining what an appropriate rate of tax at the wholesale level would be in order to approximate what you currently have.

Looking at, on the other hand, the tobacco, we're aware of course of what Nova Scotia has done and we're aware of the problem of unlicensed wholesalers of tobacco products, which I think the grocers' association pointed out could be causing significant tax leakage. We're looking at the various options that are available to us. Certainly one of those options would be to change the law in the manner that the association recommended to you, as Nova Scotia has done it. It would be successful probably in eliminating some of the leakage from retail

sales tax. The trouble is that when you move tax liability from one tax to the other, there are always effects that you didn't anticipate. It could actually give us problems in leakage in tobacco tax too.

That's one of the things that we want to look at from an administrative point of view, and of course tax policy people want to make sure that fits in with their overall strategy for the budget, but I guess if the committee wanted to support that recommendation from the association, the Treasurer would be grateful for the advice.

Mr Crozier: Gosh, I was hoping for a much longer answer than that, because I'm starting to run out of questions. I appreciate what you say about the wide variety in prices when it comes to liquor. It's my understanding that cigarettes vary somewhat but not to the same degree.

Mr Lawrie: No, not to the same degree.

Mr Crozier: So it isn't as simple as somehow statistically taking some sort of average and saying that if we apply that at a certain level, we'll end up with the same amount of revenue. It isn't quite that simple, I take it?

Mr Lawrie: Not quite. Obviously, for any province there's always a concern that any tax that you levy be constitutional; ie, not be considered to be an indirect tax. The advantage of, for example, increasing the tobacco tax rate in order to recoup retail sales tax revenue on cigarettes, if cigarettes were to be made exempt from RST, the advantage of using the Tobacco Tax Act is that there have been court cases that have held that the particular way we administer tobacco tax does make it a direct tax, whereas I'm not sure that—in fact, I am sure that we haven't had any case support levying retail sales tax at the wholesale level, that that would be a direct tax. So there would be dangers there quite apart from the issue I talked about before, which is a big retail price variation on the same drink, depending upon the establishment.

I should point out that my colleague just reminded me that we did, and the tax policy people also came along with us, meet with the National Association of Tobacco and Confectionery Distributors, which I don't think you've had in front of you. They made exactly the same suggestion as the Canadian Council of Grocery Distributors. We met with them and listened to their concerns in detail.

Mr Crozier: Having listened to those concerns, though, these are the conclusion you've come to?

Mr Lawrie: Obviously, this is one of the options that's open to the minister in his 1996 budget if he so chooses. There may also be enforcement options too, for obvious reasons. I'd rather not discuss those just now.

Mr Crozier: It's okay with me.

Mrs Palozzi: I'm sure it is.

Mr Crozier: When a subject like this is discussed, when a suggestion like this is made from the industry, notwithstanding what this committee might recommend, isn't that something you still, in the normal course of events, would look at and if there is a better way to do it, the suggestion then would come through the ministry?

Mr Lawrie: Yes. Within the ministry, the normal course of events on a problem like this that comes to their attention would be that the tax policy people, who consider recommendations to the minister in the way of

changes to tax legislation, would ask us to quantify the problem, if we were able to, from operations, from tax administration, and to give a recommendation. As I said, we have already met with a different association which drew the same problem to our attention, and obviously things have taken their normal course inside the ministry.

Mrs Palozzi: I think that within the ministry we are always responsive to meeting with organizations that have issues like this, and as part of the annual budget process we do look at what the major issues are and what the options are in solving them. I think what you've heard today is that certainly this is one of the options, but also, as in every option we examine, there are always the pros and the cons in terms of other implications—unintended, unforeseen implications etc. So it's something that, if the committee wishes to recommend it, would certainly be taken as advice and as part of the process.

Mr Crozier: I appreciate that. Certainly there is a whole range of issues that I'd like to discuss with respect to retail sales tax harmonization with the GST outside, maybe in a less political forum, because somewhat like my colleague here, I'm a simple person and it seems to me that with all our expertise we should be able to figure these things out and get them under way. So maybe some time later we can talk about those issues.

1140

Mr Pouliot: You have mentioned, sir—and I can appreciate the feeling; I make a living, at least now and then—some events, including the social contract. I need your help. Under the social contract, there were the same number of people employed but they were working fewer days, so if we go to full-time equivalent there were fewer people. That had a small impact. It was not catalytic, it was not the make or break, because the response here indicates that between 1988 and 1989 it's been predictable. It's been an ongoing problem which was not addressed. Add to it the complexities that things were changing and so on. So it's a matter of components bringing it to the catalyst. It's not one item, it's several things: more pressure—

Mr Lawrie: There are several reasons. I think Dario referred to some of them in his reply. There are several things that can influence doing fewer audits with the same number of auditors. A reduction in the amount of available audit time is one of them, and I pointed out social contract. There's also the issue of travel time for auditors and the Hayford decision in labour law, which also reduced the amount of available audit time because of that particular change and the way we had to apply the contracts.

There are other things. For example, introduction of new technology can make the auditors more efficient. It can work the opposite way. Changes in the law can result in longer audit time being taken per case, which would also explain why there are fewer audits done with the same number of auditors. There are a number of factors that can be involved. We haven't done a study as to exactly how many. We are aware of some of the factors, and I've listed all that occurred to me at the present time.

Mr Pouliot: There's an irony. I know it's much easier, with respect, for me to say this, that all in favour that you need—probably need more—the regime of the day, the

present government, has said, "Okay, we know that. We need the revenues," fairly acutely, big time, "so we'll hire 50 more people."

I read in the paper not too long ago that the other end is going to kneecap—I mean is going to chop—20,000 people. I'm still trying to reconcile that. In fact, it's so difficult that in terms of the civil service, it's about one fifth. Somebody said—I would never say this; I was upset when I heard it—it's the closest thing, thinking of the worst, to economic cleansing that society, the civil service, has ever experienced. I was upset when I heard that and I told the person there's a better choice of words, but never the less, I thought I would share that with you. I mean, that's the kind of impact that it is having.

More to the point here, you have 50 more people coming in. Will they be short-term? You blend this with a new system, and the last time you were here you informed us, told us about the, if not the capability, that you were still searching as to what application the real world, how better efficient will we be with the new system. Can you share some more about the new system now? It's been a couple of months.

Mrs Palozzi: You had a question about, will they be permanent or will they be temporary, the additional resources. The additional resources are permanent; we're not intending to hire on a contract basis or short-term basis. So it's as permanent as anything is. If you're referring to the computer system—

Mr Pouliot: Yes.

Mrs Palozzi: —the systems development, I think perhaps Dario could talk about that a little more. We talked about ITAS, which was the integrated tax administration system, and development of criteria in terms of audit selection. So if you could comment, Dario, please.

Mr Savio: There are many elements to the system. ITAS is the main system and our main focus right now, because it will give us the greatest benefit by economies of scale and bringing various databases together will also help on tax administration and enforcement. That is proceeding. There are also other systems that I alluded to briefly in response to Mr Crozier, and that is on the audit side of comparing databases, that they are systems unto themselves.

So as far as quantifying how much better it is now than last November, I would think it's a continuing process, but it would be difficult to give a percentage of how much advanced it is from last November to now.

Mr Pouliot: The role of our Provincial Auditor, as he often reminds us, is of the need to continuously strive to become, through being judicious, more efficient, and then the mandate is supposed to find itself. As a result, you would naturally get better value for your dollar, value for money.

Looking at the guidelines, listening to the auditors and to our colleagues, it's ongoing—exciting, challenging times. You have the traditional cycles. You have the restructuring, if you wish, revolution—not much to compare it with—and then you have an imposed timetable. It's happening so quickly, so it's not easy on the digestive or assimilating process. We were used to good years/lean years. It was a lot simpler then, it seems.

The first thing we should do, through your expertise and dedication, is get the money that is owed us as a province, as a jurisdiction. All the tools should be made available, because you indicate that for so many audits you more than earn the expenditure, if you wish, although when we say this I'm not so sure this kind of comment is entirely valid; I would have to figure things. It assumes you've got quite a potential to earn your keep and to do more so.

How much impact—it's only philosophical—has, let's say, a negative drag in the economy? When things go bad, of course the sales are not as much so the volume of receipts is not as great, but is it more difficult to collect taxes? I'm just going to mix it in this bouillabaisse, in this potpourri.

Last week—well, the first day of this week too—our colleagues and I listened to people, and the week before that too. Every time we talked about or asked questions about the underground economy: "Taxes. If taxes weren't as high, I wouldn't respond to the invitation. I wouldn't be seduced at the table of sin," if you wish. When you start digging a little more and you say, "If there were no taxes, would you do it?" The response was, not in the exact words, but, "If I could get it for a better price." You're almost to the point where you say, "A buck, a buck, a buck." If I'm in the province of Alberta, where there's no retail sales tax, hence we can forget about harmonization and broadening the tax base of GST—maybe in my second life—if somebody comes in and cleans your apartment now and then, there's no retail sales tax on this. Is it the same number of people who pay by cheque or pay by cash in Alberta to get their kitchen restored as in Ontario? Do you know the answer? Wherever you can get a better price.

The convenience of tax seems to have vanished. Nobody remembers that any more. It's not to avoid the taxes that we went to the United States in droves; it's because you could get a better deal. When the exchange rate in the real world got between 38% and 40%, it almost completely stopped, because then you really had to look at where you're going to make a buck.

1150

You're not asked to comment, because your duty is to collect taxes, but I came here with one head when we started to talk about the underground economy, and I'm afraid I'm going to come out of here with three heads. They've dimmed the lights, they've spooked themselves. They allowed themselves the convenience of saying, "Taxes, taxes, taxes," and I don't think that's entirely fair to our government today. The thing is to come up with a mechanism of fair play.

The Vice-Chair: Okay, we'll stop there.

Mr Pouliot: It's my time, sir.

The Vice-Chair: I didn't want to get you off on that tangent about being fair to the government.

Mr Hastings: My question relates to how the ministry deals with sales tax on products being imported or equipment being imported from our neighbours. I understand that the importer is responsible for the payment of the retail sales tax on materials and products imported from our American neighbours.

I had a meeting with a gentleman last September regarding this issue, because as I understand it, the

American corporation refuses to pay the sales tax on the export of the product. I may be completely off base on this. It's a highly technical issue. Whether that's true or I'm off base, let me know. My bigger question deals more with what kind of tax treaties or tax agreements on a provincial-interstate basis we have with our American neighbours when it comes to these kinds of issues on the other side. Do we have specific tax agreements whereby the American company exporting that farm or construction equipment would be responsible? Do we have a vice versa agreement on the other side of the coin, and if that's so, are they actually enforceable under the tax treaty with the US, basically?

It's a big issue and very complex to me, but this gentleman was saying he's paying his share but he knows of numerous companies going the other way, not just in his sector, where we are paying. Could you clarify this?

Mr Savio: I could take the first part of that question. Retail sales tax is a consumption-based tax, so it's where the consumption takes place that the tax is exigible. In the situation you cited, someone importing a product to Ontario for their own consumption is responsible for accounting for the tax to the province. For example, if a corporation imports goods into Ontario—a piece of furniture, say—the onus is on them to account for the retail sales tax to the ministry. So it's not levied by vendors in other jurisdictions.

Mr Hastings: The same applies in reverse, then, does it?

Mr Savio: If it's sold from Ontario out, depending on the legislation of the jurisdiction, the onus would be on the importer in that jurisdiction to account for the tax.

Mr Lawrie: But there's no RST levied on an export sale, if that basically is what your question is. It's up to the other jurisdiction to collect its own sales tax.

Mr Hastings: He went into great detail about your tax auditors going around to the farm and construction equipment supply companies, that they were now requiring—I wish I had the material with me—to collect retail sales tax on the service, the repair to the equipment, say, a backhoe. What was the other point he tried to raise with me? It's eluding me right now when I want the brain to function. Oh, I know what it was.

This applies to car dealerships as well, as I understand. You take your car into your dealership for repair and you get an alternative vehicle for the day. Our ministry is now advising car dealers, and this particular person, who had to use an alternative backhoe for that particular day, to pay retail sales tax on the vehicle while it is out because it's considered a service, the use of an alternative commodity, however you want to describe it. A lot of dealerships have stopped doing that because it only makes them less competitive. It's technically feasible to do and you're doing it, but they were thinking it's going a little beyond the requirement of the regs.

Mr Savio: It's not a tax on service because that nature of service is not taxable. What it is is the own-use of the equipment, and the dealer is responsible for paying tax on own-use of the equipment.

Mr Hastings: Is this making them uncompetitive? I guess that's a question I leave with the deputy for a broader issue.

Mr Lawrie: I can answer the second part of your question, which relates to, as I understand it, exchange of information or arrangements, treaties, with other jurisdictions. Basically, as I recall, we've only got one on sales tax with a US state, and I think the state is Ohio; that was fairly recently negotiated. That covers a lot of our taxes, and basically it's an agreement for exchange of information. As far as I know, we haven't exchanged any yet, we've just put the agreement in place. It would also cover things like gasoline fuel tax, tobacco, a number of our other taxes.

It's not usual for us to have retail sales tax exchange agreements with US states, basically because there doesn't appear to be much demand either way for that and because some of the individual states have constitutional barriers against entering into that type of arrangement with a non-US administration, which obviously makes it impossible.

We have reciprocal agreements for exchange of information with all other provinces and the two territories. Information is regularly exchanged under those agreements, provided for in the Retail Sales Tax Act.

The type of cross-border situation you're talking about also occurs between provinces. Normally what will happen is that, based on complaints, another administration, Manitoba or Quebec, say, will say to us: "We've got several complaints that there have been sales into our jurisdiction. Could you send an auditor out to take a look and give us information so we can levy on our own

residents the sales tax they should have voluntarily declared themselves?"

We've obviously got de minimis rules. We don't go after every nickel-and-dime sale, but for significant sales we do provide that information to other jurisdictions we've got an agreement with, and they provide it to us too. It's part and parcel of monitoring cross-border sales.

Mr Hastings: On a broader final issue, I wonder if this cross-border, transborder issue in terms of application of retail sales taxes, how ours applies, is competitive in terms of job creation. I wonder if that's an issue you could take a look at, Mrs Palozzi, for further study.

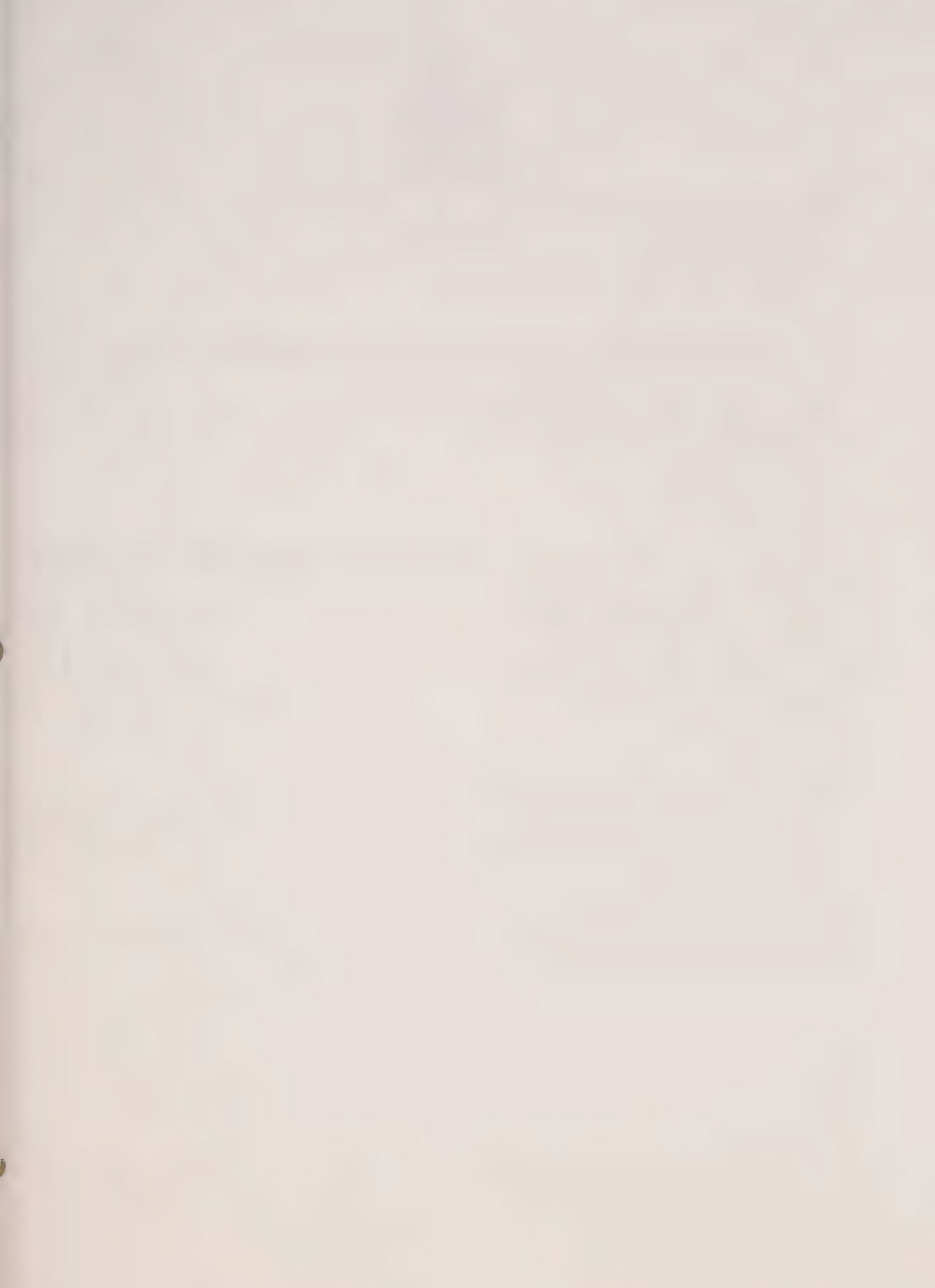
Mrs Palozzi: Yes, it's a broad question in terms of isolating that as a contributor or non-contributor to the competitiveness question.

Mr Hastings: I don't think it's ever been examined before.

The Vice-Chair: Our time is up. I want to thank all of you for coming and sharing with us your expertise on a broad range of subjects. It has been helpful. As you know, we're about to consider our report this afternoon for submission. I just remind members of the committee that that's what we'll be doing in closed session. You've got a copy of the document before you. Perhaps we'll begin at 2 o'clock with a backgrounder from Mr Peters to put us back to the rationale for having these meetings.

Again, thank you very much for helping us out in this undertaking, which, as we know, is quite complex.

The committee recessed at 1200 and continued in closed session at 1400.



CONTENTS

Thursday 7 March 1996

1995 Annual Report, Provincial Auditor: Retail sales tax

Ministry of Finance P-213

Dina Palozzi, deputy minister, revenue and financial institutions

Roy Lawrie, assistant deputy, tax division

Dario Savio, senior manager, audit, retail sales tax branch

Peter Spiro, manager, economic policy

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Kormos, Peter (Welland-Thorold ND) for Ms Martel

O'Toole, John (Durham East / -Est PC) for Mr Beaubien

Also taking part / Autres participants et participantes:

Erik Peters, Provincial Auditor

Clerk pro tem / Greffière par intérim: Tonia Grannum

Staff / Personnel: Elaine Campbell, research officer, Legislative Research Service

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P-13

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Assemblée législative
de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 25 April 1996

Journal des débats (Hansard)

Jeudi 25 avril 1996



Standing committee on public accounts

Audit Act amendments

Comité permanent des comptes publics

Amendements à la Loi sur la vérification des comptes publics

Chair: Dalton McGuinty
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 25 April 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 25 avril 1996

The committee met at 1106 in room 228.

AUDIT ACT AMENDMENTS

CO-OPERATIVE HOUSING FEDERATION
OF CANADA, ONTARIO REGION

The Chair (Mr Dalton McGuinty): Good morning and welcome to the standing committee on public accounts, and in particular our consideration of possible amendments to the Audit Act. Our first presentation today will be made on behalf of the Co-operative Housing Federation of Canada, Ontario Region, by Mr Bill Morris. Welcome, Mr Morris. You have a half-hour for your presentation, and committee members would appreciate it if you would allow some time during that for them to ask questions.

Mr Bill Morris: I've prepared a presentation that is both written and oral. I'll try and walk through the written presentation in such a way that we cover it in time to get to some of the questions, if we can.

I'm here today representing the Co-operative Housing Federation of Canada, Ontario Region. We represent the owners and the residents of cooperative housing. More than 450 cooperatives are our members, and that represents over 40,000 households here in Ontario.

Each of these cooperatives is an independent private business operating within a framework provided by the Co-operative Corporations Act. Housing cooperatives also participate in government programs, both at the federal and provincial level, and it's this involvement with government programs that has brought us into contact with the Provincial Auditor.

Housing cooperatives, I want to stress, are businesses similar to those that operate in communities throughout Ontario. We're a particular kind of business, cooperative businesses, but cooperative businesses have a long and proud history in Ontario. There are many within the farm supply end of the business community as well as within the financial community.

We, as I say, work under government programs. These government programs are designed to do two things primarily. First of all, they're designed to bridge the difference between the cost of building new housing and operating it in a market in which very little housing is being built. The assistance we receive to bridge that gap is repaid to government. We also receive and implement a program of rent-geared-to-income assistance for some people who live in cooperatives. This is an income supplement program to allow low-income people to afford to live in housing cooperatives. Typically, people

pay somewhere in the order of 29% if they're receiving rent-geared-to-income assistance.

These two types of assistance are provided through programs of the Ministry of Municipal Affairs and Housing. In terms of our relationship with the ministry, it is governed by multi-year contracts or operating agreements. These establish both the assistance that's to be provided to cooperatives as well as the repayment schedule and other requirements of the program.

We'd like to speak about the experience of non-government organizations, non-government businesses, in dealing with ministries and dealing with the Provincial Auditor. The Provincial Auditor has twice, in the last five years—I guess it's six years now since they first started to do their reviews of housing. We have some observations we'd like to make. Generally, these are going to follow three themes.

First, again, housing cooperatives are not extensions of government but are independent businesses legislated through Ontario statute with requirements set by their members and by statute and program. Second, we're responsible in terms of audits. The observation we'd like to make is that audits, the two we're familiar with, have generally resulted in a focus on more rules rather than improved performance. Third, we don't believe the existing accountability structure is particularly appropriate and are seeking change to that accountability structure.

Generally, housing cooperatives begin with fairly ambitious objectives in terms of providing housing within their communities. The objectives are both social and business-oriented. It's this duality we strive to balance in terms of the day-to-day operation of housing cooperatives. Boards are elected by cooperative members; they form committees; they undertake to take on the day-to-day management of the housing cooperative. We want to stress that there are three levels of scrutiny we see within the relationship.

First and foremost, we're responsible to our members. Those members are living in the housing, are stakeholders in the housing and are there on a 24-hour-a-day basis in many cases. This means, as is often said about housing, it is a 24-hour business.

Second, we have a legislative responsibility under the Co-operative Corporations Act. As part of the requirements of that act, each cooperative has to undertake an audit conducted by an outside firm. Those audits are public and are available to the Ministry of Consumer and Commercial Relations.

Third, we have the scrutiny provided through the programs themselves. Programs have requirements in terms of submitting both the audited statements as well as an annual information return. This goes beyond the

standard financial statements provided by auditors, and also includes the management letters that are often done within the course of audits performed on cooperatives. The layer on top of that is, of course, the one of the Provincial Auditor indirectly, in that the auditor has examined the operation of housing cooperatives within its mandate to look at the performance of government in terms of implementation of its programs.

Our observations—and we've shared them both with the Ministry of Housing and in our brief meetings with the auditor's office—are as follows:

First, there's an imbalance between the public and confidential nature of the auditor's work. This creates problems for external businesses, such as cooperative housing, in interpreting reports and making good use of the auditor's findings. For example, the auditor's draft and final reports receive considerable media attention. Draft reports are sometimes leaked to the media and others, without particular regard to the potential damage that inaccuracies within drafts can cause. When findings have later been found to be inaccurate, we've found little in the way of an attempt to rectify the public's perception with respect to errors.

On the other hand, useful information is cloaked in secrecy. Non-government organizations have absolutely no idea what approaches have been used to collect data and what analysis has been used, or whether the techniques are appropriate to the housing industry. Co-ops are denied access to information about the underlying assumptions, methodology and benchmarks, yet we are made subject to evaluations as if we're an extension of the Ministry of Municipal Affairs and Housing.

While the role of the Provincial Auditor is to evaluate the performance of the ministry in delivery and administration of government programs, the ministry's general response to the Provincial Auditor's findings is to create more rules for non-government organizations participating in government programs.

By way of example, we'd like to highlight the most recent housing program introduced in Ontario, the Jobs Ontario Homes program. This program was developed in the wake of a Provincial Auditor's report, with significant input from the auditor's office and the public accounts committee. The problem we see is that the result was a tighter program accompanied by longer time lines, greater government control rather than less government intrusion, and responsibility for development decisions moving away from housing cooperatives to the hands of government staff. In some cases, civil servants ended up making deals with contractors and engineering firms independent of the groups that were later expected to take on the management of the housing. The problem in the end was that this didn't result in better value for money; it resulted in simply a more expensive program.

In his first look at ministry programs, the Provincial Auditor stated that we don't need more rules, we need more appropriate rules, and we'd generally agree. However, as I say, the response has generally been to create more rules, not intended to provide better performance but generally intended to avoid embarrassment to the ministry and the government of the day.

While we agree that a new accountability framework in terms of housing was long overdue and badly needed, I think it's safe to say that we differed about the direction we thought the government should head in: generally, we thought a program that had clear objectives, fewer rules and a more business-oriented relationship with government. We've also proposed to government that we, the industry, take on more of the functions currently performed by government.

These proposals were designed to try to improve the accountability framework and add value for money. We believe this is done when government ministries are accountable for the long-term value of their programs as well as the day-to-day administration of government activities; and when private businesses, including those participating in government programs, have an opportunity to improve the performance rather than simply attending to more rules; and when industries, not government, are responsible for self-regulation through value added, service-oriented approaches. This combined approach of audits of government, performance incentives for business, and industry self-regulation will help government to achieve the highest return for the lowest cost within the framework of accountability and value for money.

We've been building cooperatives in Ontario for more than 25 years and have witnessed significant changes within governments over that time. Each new government tends to bring a new style, new objectives and new priorities to housing. We would hope that in terms of value-for-money audits, the changes governments seek to make would go through some kind of screen that would determine whether the changes proposed in fact would end up with greater value for money, and whether the procedures currently in place can be improved with respect to ensuring greater value for money.

We do not believe it is particularly appropriate for the public auditor to do value-for-money audits that look at the performance of businesses participating in government programs. We make that point because we think businesses are primarily responsible to their owners, and in the case of housing cooperatives, this means to their members. The members are responsible for the financial performance of the corporation.

There's no question that narrowly based systems of rules and compliance have an effect on performance. For example, there are two approaches used within the rent-geared-to-income program, one by the Ministry of Housing at the provincial level and one by CMHC at the federal level. The ministry's approach is to have a very thick binder of rules that attempt to look in advance at every situation that might arise and provide guidance in terms of how each situation should be dealt with. The CMHC approach is to have one page that says, "This is who is eligible for the program." There's no indication that the Ministry of Municipal Affairs and Housing approach of detailed rules results in any better performance. Unquestionably, however, it does result in higher costs in terms of the overhead of the ministry and of housing cooperatives.

1120

This emphasis on rules rather than performance we think is problematic. We believe the efforts of this

committee are best focused on mechanisms which deliver accountability and add value with less government expenditure rather than more labour-intensive evaluations of third parties that may document problems but do nothing to improve performance. What can we do instead to achieve accountability and value for money?

First, the current review process could be made more useful. Information on methodology, assumptions and benchmarks should be made available to representatives of organizations and industries affected by the Provincial Auditor's reports. Draft reports need either to be kept completely confidential or made completely public.

Second, the government's concern about value in delivery of its housing programs should distinguish between day-to-day program administration and the long-term nature of the program. Again, we're talking about a program here that has 35-year agreements but tends to be looked at within the narrow confines of day-to-day operations and five-year mandates of governments.

Third, program administration should emphasize performance, not compliance. Self-regulation can be successful in achieving the ultimate value for money, through changing programs to ensure we're using systems more appropriate to ensuring that performance is achieved rather than simple compliance.

We've been working at both the federal and provincial levels and have been attempting to influence governments to change programs in this direction. We have worked at the federal level and have gone through a process of comparing the function of government in terms of the day-to-day administration of programs. That process, when looked at by an independent firm, has found that our approach, an industry self-regulation approach, would save the federal government more than \$2 million a year and, over 20 years, somewhere in the order of \$50 million in terms of ensuring that there's a best-practices approach rather than just a compliance approach.

As private businesses, housing cooperatives are well versed in the role of audits, the need for accountability and the importance of value for money. As an industry, we have advocated improvements in all areas for many years. We appreciate your interest and attention to our concerns and suggestions. Thank you.

The Chair: Thank you, Mr Morris. We'll begin questioning with Mr Hastings.

Mr John Hastings (Etobicoke-Rexdale): Mr Morris, I'm a little confused. Clear my thinking on the value-for-money approach, which you don't seem to think is that important in day-to-day program administration; that value for money ought to be placed more on the longer-term investments, so-called investments, in the housing stock, through the mortgage paybacks, I presume. Yet you also say, on page 4 of your submission, that we need more rules and not program performance improvements.

Mr Morris: I'm sorry, where are you referring to?

Mr Hastings: Sorry to get here late. On page 2 you were saying the focus has been more on rules than on improved performance.

Mr Morris: Yes. We're saying that has been the focus. We're not advocating that that should be the approach. We're saying that has been the result of the previous audits.

Mr Hastings: All right. Then what is your basic comment with regard to why value for money isn't as essential on day-to-day program administration as it is on the investment in the housing stock itself?

Mr Morris: Primarily because the relative dollars involved in day-to-day administration are fairly small. As the Provincial Auditor's report previously found, most cooperatives and non-profits have almost all their business costs as fixed costs. I believe the last report found that only 18% of costs were what were termed as "manageable." I'll just say that "manageable" refers to everything outside of paying the mortgage, paying the taxes, paying the utilities; that involves all the repair, all the staffing, all those kinds of decisions. It's relatively small amounts of money.

We're saying that if you really want to focus on value for money, focus on ensuring that the programs first and foremost are efficient rather than on setting a lot of day-to-day rules. That's essentially the thrust of what we're saying. We're not suggesting that within the relationship we currently have with private auditors those private audits don't have a beneficial effect on the day-to-day operation of housing co-ops; they of course do. But we're saying that to add an additional layer in terms of the day-to-day operations by having the Provincial Auditor essentially look again at the work that has already been done by an independent, private sector auditor to look at the business operations of a co-op is a bit duplicative, that the real focus should be on the programs themselves and on the ministry's performance in terms of implementing the programs.

Mr Hastings: You also allude to the fact that the members of the co-op are the most important folks in dealing in the co-op world, the people who actually live in those non-profit co-ops. Under legislation and amendments brought by the previous regime, a member of a co-op, under section 66(1), could be way behind in payments and doesn't even get dealt with by the board of directors. There are other amendments in there that almost render a co-op board ineffective in dealing with day-to-day financial administration. Do you have comments on that?

Mr Morris: I would disagree with that characterization in that the amendments that were made to the co-op corporations act essentially imported the fault provisions from the Landlord and Tenant Act in terms of dealing with situations like arrears. It was designed to try to ensure that there was some level of fairness within the process, because while most cooperatives had those provisions in their bylaws, a number didn't.

What we were afraid of was the fairly rare case, but ones did come to our attention, where essentially people were evicted without any process at all because they didn't have the protection of legislation; all they had was a business relationship with the cooperative. We had some fairly ugly incidents where people were essentially evicted in the middle of the night, kind of green-garbage-bag evictions. So we said, "What's the community standard?" The community standard at the time was the Landlord and Tenant Act, and we simply imported those clauses.

Mr Mike Colle (Oakwood): Thank you, Mr Morris. By the way, I lived in one of the first co-ops, I guess the

pioneer co-op of the GTA, Ashworth Square, back in the early 1970s down in Mississauga. I have a bit of experience from a personal perspective.

One of the concerns I have is the maze that exists, sometimes lack of clarity of the structures. It's a specific type, not the regular type of co-op, but there's a building in my constituency that is run by a board. This board is supposed to be elected every year and accountable to the tenants and to the government. But in essence what's happened is that there has been a real rift; the residents feel totally alienated from the board, and the board seems to be almost like an oligopoly that's put in place and has nothing to do with representing the tenants. The tenants, the people living there, are certainly very upset.

They had an audit done. The ministry asked for an audit to be done of the board, and they went out and hired private auditors. The audit came back with a clean bill of health. The problem is that, despite this audit, it's almost impossible for the tenants to have any input, and they still have questions in terms of where tax dollars—they're not quite sure whether it's federal tax dollars or provincial tax dollars. But they face an alienation between this board, that's supposed to be democratically elected etc, and the people who live in the building and spend their lives in the building.

I'm just wondering how you get around that. Wouldn't there be a potential for the Provincial Auditor, perhaps, to step in and say this is a system that needs some rectifying? Right now, the way the rules are set up, the tenants have no recourse.

1130

Mr Morris: I guess my response would be the Churchillian one, that democracies are the worst form of governance we have ever created, except all the rest.

I'm not sure whether what you're describing is a co-operative or a non-profit. It sounds like it may be some kind of hybrid. If it is incorporated under the co-op corporations act, the members do have a fair amount of recourse. They have the recourse of recall—which we don't have with our legislators, as you know—in terms of boards of directors that are elected. But it does require people being willing to exercise their democratic responsibilities. Without that, you're right, democratic procedures and processes can break down, where people don't or aren't able to exercise their democratic rights and responsibilities.

That raises a second question: Is it the appropriate role of the Provincial Auditor or some other body to fix that situation? I'm not convinced it's the role of the Provincial Auditor. I think there are better systems that could be put in place to deal with that. The system I would propose would be essentially industry self-regulation, where we are given the power similar to that which labour unions enjoy in terms of trusteeship; that where a group runs into problems that are in the short term unreconcilable by themselves, then not government but a non-government organization, whose only purpose is to ensure that the thing gets back on its feet and running properly, is brought in to deal with that situation. I don't believe that's the mandate of the Provincial Auditor's office.

Mr Gilles Pouliot (Lake Nipigon): Mr Morris, as always, one is suitably impressed with the quality of your presentation and the sincerity which is so apparent. I

know that with people like you, the co-op is indeed in good hands.

On page 4 of your presentation, you voice an anxiety where you talk about the transitions between governments, between administrations. When you look to the future—and it's the well-known style of the present government, or its intention, to have more scrutiny under the umbrella of value for money.

We're not talking here, Mr Morris, about the CEO of one of the large hospitals and the housing allowance that goes with it, totalling, with different benefits, more than half a million dollars a year straight from the pockets of taxpayers. I don't want you to comment on that; I'll do that, sir. We're not talking about that kind of value for money, nor are we talking about tax arrears, about deferrals, about how to "play the system" to one's advantage under depreciation allowances and research and development. We don't see value-for-money audits on these things, for the committee has not seen fit to commission the Provincial Auditor and his staff to do so.

When you see this—and I know you represent a lot of the poor. People have now a chance to be like the others. I mean, sheltering? Heavens. Do you feel an audit could possibly become, in the eyes of your members, an inquisition? Do you feel that since they're not rich, those people, they could possibly feel targeted through the system?

Mr Morris: Possibly. My comments are less a concern about that than about us ensuring that we use appropriate mechanisms. Government brings certain mechanisms. There's an interesting book by Jane Jacobs recently looking at the various systems of accountability used in the commercial world and used in government, and clearly they're very different. They subscribe to very different sets of values.

I'm here expressing the concern that our participation in government programs, which we have been engaged in for almost 25 years, began with a review of public housing that said: "Public housing is something we shouldn't be doing. We should be harnessing the energies of the private sector in the community in order to build non-government housing that is responsible to the people who live in it, not to governments."

Our experience over the last 25 years has been that we like that initial approach, but our concern is that increasingly we're being sucked back into a public housing sphere where all the decision-making is removed, and when you remove all that decision-making from people, you of course forfeit the benefits of those non-government organizations and the business orientation they bring to it. We got into this to do something that government couldn't do on its own through ownership and management of housing. I'm afraid what we're doing is slowly but surely throwing that away by moving to greater and greater government accountability.

Rather than imposing on us what we're asking for, give us incentives, give us systems we can work with that are akin to the systems outside of government. Make us make decisions that are market-oriented—that's what we're asking for—rather than entering further into a compliance-oriented system.

The Chair: Mr Morris, thank you very much for your presentation.

ASSOCIATION OF DISTRICT HEALTH COUNCILS OF ONTARIO

The Chair: The next presentation is being made on behalf of the Association of District Health Councils of Ontario. Welcome to the committee, gentlemen.

Mr Gord Gunning: Good morning. My name is Gord Gunning. I'm the executive director for the association. My colleague is Jeff Wilbee, the volunteer treasurer for the association and the chair of Huron-Perth District Health Council. If you have technical questions, Jeff will handle those at the end of the presentation.

I don't propose to go through the submission in detail, but I would like to highlight some key points and then allow opportunity for some dialogue with the committee.

As many of you know, district health councils were established by the government back in 1972 to provide local and regional health care planning. We have been given the responsibility for recommending to the Ministry of Health specifically plans for the delivery of health care in each of the districts. Councils are advisory bodies to the minister and no agency programs are to be submitted to the minister for approval without prior approval of the district health council.

In 1994, under Bill 173, two additional responsibilities were added that I'd like to quickly highlight. DHCs are now expected to make recommendations on the allocation of resources to meet the health needs in the council's geographical area. As many of you know, those resources total some \$17.4 billion annually. We also have the responsibility for making plans for the development and implementation of a balanced and integrated health care system in the geographic areas across the province.

For the record, over 8,000 volunteers contribute more than one million hours each year to community health planning through district health councils, and there are 33 councils covering 100% of the province's total population.

The purpose of our presentation today—first of all, we should say we have not been identified as a schedule A grant recipient that would be subject to full compliance or value-for-money audits by the Provincial Auditor. However, we are schedule 3 transfer payment agencies, and DHCs have been partners with the Ministry of Health in establishing mechanisms to enhance accountability in recent years, and we wish to share some of our ideas about the proposed amendments to the Audit Act in these regards.

1140

I'll skip the background on page 2—I'm sure you're well aware of that—and speak to Mr Peters's proposed amendments to the Audit Act that expand the Provincial Auditor's authority to conduct compliance audits that will determine if agency funding dispensation is for the intended purposes, as well as value-for-money audits that will determine if the agency funds are spent "prudently with regard to economy and efficiency."

The proposed amendments to the Audit Act to allow for full compliance and value-for-money audits of schedule A grant recipients are based on the establishment of what's been termed a "workable legislated accountability framework." I highlight that because we'd

like to come back to that point a little later in the presentation. Certainly that framework is regarded to be necessary to enhance governance and performance management in all of your government expenditures and activities.

Some of our observations: Very briefly, we strongly support the principle and the intention of the Provincial Auditor's proposal. However—I guess there's always a "but," otherwise we wouldn't be before you today—we think there are opportunities that do exist to refocus on emerging models for publicly funded services and that there may be some alternative government directions you may want to consider in terms of the management of services provided at the local level, where we operate on a daily basis, and which can be supported by current government policy to more cost-effectively enhance governance and performance management accountability for the dispensation of public funds.

We believe accountability can be effectively addressed at a service system level, with outcomes for service care provision assessed within this context. This is an emerging area in a number of jurisdictions across Canada, but we think this can be done by establishing some fiscal and, in health care, clinical accountability at the local level through some models of organizational networks that provide efficient, integrated care for a local population. What's the definition of a local defined population? In the literature at least, it seems to range from a minimum of 100,000 people to a max of two million.

In a recent article by Leatt, Pink and Naylor, they've introduced a proposed definition of an "integrated delivery system." That's been bandied about a lot in health care these days, but it's the first definition we've found that we think makes some sense and wanted to share with you. It's defined as a network of health care organizations that provides or arranges to provide a coordinated continuum of services to a defined population. The network would be held clinically and financially accountable for the outcomes in and the health status of that population, and would manage the allocated funds on a capitation basis. They cite US and Canadian experiences with these vertically integrated models, and they describe some methods to control costs and provide a continuum of quality care through financial incentives to providers for minimizing costs, and performance measurement through peer review, clinical audits, expert reviews and utilization analysis.

Just as an aside, there are some active conferences and meetings going on even today and tomorrow and two more days in May in Ontario to deal with this very issue and try to come forward with some recommendations from the health sector.

Within this model of system care, the government's role, we believe, would be to examine the allocation and expenditure of funds on the basis of performance benchmarks, established with the provider networks and individual providers, that focus on anticipated outcomes. In this way, the success of a health system in addressing population health needs can be determined by assessing the individual agencies, such as hospitals, which you've heard from, and public health units, on the basis of how they are expected to function and how they ultimately

contribute to a system-wide plan for affecting population health.

We believe that monitoring the implementation of these service plans is critical to improving the economies and efficiencies, and performance benchmarks are seen to be the foundation of an effective monitoring system for these service plans.

A strategic approach to controlling the costs and ensuring effective use of public funds by all these government agencies in this way is believed to address some of the issues that would continue to arise in an enhanced Provincial Auditor's role for assessing value for money.

Two issues come to mind in this regard.

First, you heard from the Ontario Hospital Association in its presentation to the committee in February that the Provincial Auditor would require specific expertise within the office to conduct these value-for-money audits, so we won't get into those details, but we concur with that position that it would require some additional expertise and probably some additional resources in his office.

Second, the Provincial Auditor reported that his staff complement is being reduced from 115 in 1991 to 85 in 1996-97, or a 26% reduction. The very staff-labour-intensive nature of value-for-money audits we feel may cause a problem there.

Also, a central interest of the Provincial Auditor is the level of economies and efficiencies achieved by individual government agencies, so our hope is that economies and efficiencies can be covered under the performance benchmarks or those kinds of measures.

Based on that context or that background, we believe that governance and performance management can be most effectively enhanced in the health sector through the establishment of the model of a local integrated health delivery system which would establish an accountability framework for the expenditures of public funds through government agencies. It's based on government fiscal frameworks, ministry policy and service system self-regulatory mechanisms.

In this regard we believe, as similarly stated by the OHA, that the focus of the auditor should be on ensuring that the Ministry of Health, in our case, has appropriate accountability structures in place with respect to its transfer payment allocations. We feel there are basically seven points to cover off that accountability framework or that accountability structure.

(1) The creation of a vertically integrated health delivery system at the local level.

(2) A clear government fiscal framework that requires each ministry to fund its own administration and transfer payment agencies accordingly. We feel that Bill 26, the Treasurer's economic outlook and the impending provincial budget are all strong moves and directions in this area.

(3) The requirement of transfer payment agencies to operate with balanced budgets as a part of the government fiscal framework and to prepare annual operating plans.

(4) To develop ministry policy frameworks that require the establishment of performance management standards for each of the agencies, boards and commissions, and

processes to monitor and assess performance against these standards, so we're really looking to the future over the next three to four years.

In April of this year, the Ministry of Health did announce a framework that would facilitate a strategy to enhance accountability of its operations and those of its transfer payment agencies. In its strategy to restructure, the ministry plans to move, as quoted by the minister, "from a fragmented to an integrated system" and to a role that "no longer merely processes transactions but will manage, monitor and protect information strategically." In that respect, we agree and support the Ministry of Health directions to become more strategic and policy-focused and to be a more active system manager, if you will, rather than a passive payer.

(5) To establish performance management standards or benchmarks that would be based on deliverables and expected outcomes that are determined as a function of the resources available to carry them out.

A couple of recent papers have been produced by the Canadian Institute of Chartered Accountants in 1995 which I'm sure Mr Peters is fully aware of. We thought perhaps those, Guidance on Control and Guidance for Directors, may be a starting point to help create those performance measures with schedule 3 agencies and other agencies in the broader health sector.

The recent establishment of the Health Services Restructuring Commission and the mandate it has been given by the government to focus on a systems approach and to achieve the cost savings and reallocate those cost savings over the next four to five years I think also supports the seven-point plan we're suggesting and certainly the role of district health councils. We've obviously been intimately involved in looking at operating plans and allocation and reallocation of those funds to deal with high-growth areas, and with rural and northern issues.

The position we're taking is that rather than a value-for-money audit for individual institutions, we would prefer to see a systems cost-saving approach that can be measured through some form of performance auditing, if we can use that term, for which the Provincial Auditor, the Ministry of Health and the health sector partners can jointly develop the performance standards of the system being restructured.

1150

(6) We feel there is a need to establish, if they're not already in existence, memoranda of understanding or agreements between the government and each of its agencies, boards and commissions which give clear direction by Management Board of Cabinet and specify administrative requirements and financial reporting relationships which would address some of those concerns we have for the future.

(7) Finally, legislation that clearly defines the role and relationship of the transfer payment agency to its relevant ministry.

To sum up, through this general accountability framework, we believe the Provincial Auditor would have in place a mechanism through each ministry to evaluate value for money for the ministries and their ABCs. This framework would allow the ministries and Provincial

Auditor to focus on the cost savings achieved in each of these service areas.

In conclusion, we certainly strongly support the government's goal of enhancing accountability of governance, cost-effectiveness and performance management of public funds. We believe this can be achieved in the health sector by the establishment of local integrated health delivery systems. Fiscal and clinical accountability can exist within a local network of service providers that manages a continuum of health services to a defined population.

This strategic approach to service provision uses the expertise and knowledge within the public health sector at the local level to assess the use of public funds by government health agencies.

We believe our proposed framework provides the means for the government to assess its cost-savings targets in the health sector, and may even be applied more generally to other sectors, be that education, law enforcement and others, on the basis of service deliverables and expected outcomes, and that we would have a mechanism for assessment and reallocation of public funds to areas of greatest need. We would hope this framework, as it evolves, would be more forward-looking and would ensure that the citizens of Ontario would be better served.

Those are our thoughts. We hope those are helpful to your committee in your review of the Audit Act. Thank you for the opportunity to be here with you today.

The Chair: Thank you very much for your presentation. We'll begin questions with Mr Colle.

Mr Colle: Why would you not think that a possible intervention or involvement of the Provincial Auditor in ensuring that the health dollars are spent wisely would complement what you're suggesting in terms of these benchmark approaches? With our resources, the auditor's would be a limited intervention, to a certain extent. What would be wrong with the auditor, in a very targeted way, trying to enhance the systems you suggest be put in place to ensure that there's more accountability and wiser expenditures of health dollars?

Mr Gunning: I don't believe we're saying we would object to the increased accountability and authority for the Provincial Auditor to have that capability. What we're saying is that given the resources, it's the old focus on the 15% or 20% that's causing 80% of the cost or 80% of the problem. Our view was that if we looked at the framework of accountability that's developed in conjunction with the auditor, then where he has to look at an exception or a problem or crisis area, he can use his resources better, and it's not expected that it would be a requirement or an expectation of his office to do it more broadly.

Mr Colle: But given that \$17.4 billion is spent on health care and that we're getting to the point where it is going to be dramatically changed in terms of service delivery and there's going to be a scramble for every penny spent in health care, how would the auditor not be able basically to ensure that you're going to squeeze every cent out of the system and in essence be sort of a catalyst for more return for health dollars, given what we're getting into?

If you are trying to achieve more efficiencies—which obviously you are; you're in the front lines of this, an essential part of it—I don't really see the rationale. In essence you're saying the auditor's resources are limited, but I think what the auditor is saying is that there's so much money involved here, we have no other choice but to get involved in this field because we feel it is a responsibility to try to assess what is really going on in this massive expenditure area.

Mr Jeff Wilbee: Perhaps I could attempt to answer, at least from my own perspective. One of the ways I would address that is that in the broadest sense, we have just set up a Health Services Restructuring Commission to take a look and make sure that the efficiencies and the work that's gone through with all the volunteer hours and staff dollars we've put in in terms of planning—that in fact those plans are carried out and implemented. In the broadest sense, it would seem to me, in my own mind, it is at what point do we audit? We have to make sure that process is working very well.

If I can take it down to a very practical sense in terms of operating a district health council, I think you're quite correct. We are on the front lines. My understanding of our role, as chair of a district health council, as a volunteer, is that we are through a consultative process to be able to advise the minister, give him the best advice we can on how we can gain the most effective and cost-efficient system within a particular district or region, and clearly, as my colleague Gord has said, that more and more we take a look at integrating the health system.

The advice isn't the best advice we can give if the planning process itself isn't efficient and effective and is itself not integrated. For example, the reason we're strongly in favour of these overall benchmarks, and one of the things that has happened recently in conjunction with the Ministry of Health and the district health council system, is the development of a stabilization kind of fund. Essentially, planning dollars come from a number of areas within the ministry that we advise, and sometimes that can be very restrictive.

If I can put that in a practical sense of operating a district health council, we would have core funding and then special project funding that might include funding for development planning of long-term care, mental health reform, hospital restructuring. We would see a pooling of that kind of money to not only reduce some of the silos within the ministry itself but also how that is conducted out in the community we're attempting to plan.

To get to the pooling in a very practical sense, if you have certain moneys within a special project, you hire a planner to work on it—say, hospital restructuring—then you can't perhaps in many cases then move those resources back and forth over the other initiatives. Our experience over 22 years is that that is not the most efficient and effective way to manage a planning body. Within that, clearly one has to have those kinds of benchmarks; the idea of building those, doing yearly work plans that the ministry itself needs to be accountable for, to make sure those work plans are first of all appropriate and, second, achievable. To my mind, then, that's where the audit process enters the system. If that isn't established at those levels, then when you get down

to auditing it in more minute ways, perhaps we lose some effectiveness there.

Mr Pouliot: Following what Mr Colle has so ably mentioned, \$17.4 billion is a lot of money, more than one third of the overall purse. On your end, you don't have the power to levy or the power to borrow. Until recently, in some cases there was some power to have, if not an annual, a deficit picked up. It became part of the culture in some cases. In fact, a cynic would say it was factored in, in anticipation that it would be picked up.

On page 4, your tone signals, *grosso modo*, that you would welcome the participation of the Provincial Auditor, and then you accompany that statement with a caution, a reminder of the complexities. It's almost as if you would say you are redefining the atom. This is sort of the nuclear physics of health, if you wish, that, "It has become so complex and so intricate in our world that unless you, Mr Auditor, have the expertise and the resources"—and then you go on in your menu by pointing out some of the spices in the sauce and you say: "Well, poor you, Mr Peters. We know your staff will be reduced by some 26%, and you are a fine soldier, with expertise, but unless you have the resources and tools to match the task ahead, maybe it can better be achieved"—I'm trying to voice the conglomerate here—"by individual government agencies." It's sort of a mix, sort of a vague definition.

1200

You will come under public scrutiny more and more; there's no getting away from it. The demographics alone are not helping you. The volunteers too are on the waiting list. We all are clients. Ten thousand people each and every month go from being 64 years old to 65 years old in the province, roughly 120,000 people per year. Used cars demand more care, more visits to the clinic, more diagnosis, and you will be asked to focus with this.

In a climate where you have a *vision du jour*—they're the political menu of the day; they're not a special, I can assure you. They've clearly indicated with the new philosophy that what we know from yesteryears—I'm not asking you to comment on this, I can do that, but I can see the acquiescence—is that there'll be fewer dollars and then they don't know where they're going. They're fighting on all fronts. I picked up the paper today and I see that the expertise, the doctors, are being taken to war by this brigade. I also see that the nurses—you know, the front—are being taken to task too. I don't see the highly paid administrators and the friends of friends being taken to task.

While you welcome the principle of value for money, a better bang for our buck in the health field, you caution us that we don't have the resources to do the job that needs to be done. I'd like to have a little more comment, because obviously the status quo—if they don't hit you between the eyes, they'll get you with a thousand cuts. I know those people; I work with them. They'll broadside you so big-time badly, what is your real solution to address the recommendation made to the Provincial Auditor? What would you do if you were in our shoes?

Mr Gunning: A quick answer from my perspective. If the committee decides it wants to grant Mr Peters, as Provincial Auditor, the value-for-money authority under

the Audit Act, you're going to have to increase his staff load significantly, not decrease it. But what we would like to see is certainly a partnership—our sector, health, but others—where we could work with the auditor to set the standards. The bottom line from our view is that there's a lot of legislation and a lot of requirements laid on the sector, but we're not working in a synchronized way and we're not integrated. The partnerships are key in the next year or two to work collaboratively and together to make it happen. It's not a you-and-us; it's together that we're going to make it happen.

Mr Toni Skarica (Wentworth North): Dealing with page 8, one of your recommendations for a general accountability framework is that there should be a performance management benchmark. My short question to you—and I'll have a longer explanation in a second—is, what difference does that make? From what I've seen in my experience in government already, if you get a mess and you see an agency that's overspending, what happens is that you go in there and you restructure, but the people who made the mess resurface somewhere else. Their pay is not affected. Mr Pouliot's a prime example of that, my friend. He was the Minister of Transportation and his department came in way over budget, as he candidly admitted to us, and he'll end up walking away with a \$1-million pension, and all the bureaucrats in his ministry are still there.

Why can't we have a system where if you have a budget of, let's say, \$100 million and you come in with \$120 million of spending, why can't the people responsible take severe pay cuts, like 20% or 40% or something? Why can't we have something like that?

Mr Gunning: The quick reaction is, we can, but I think you also have to have the flip side and provide an incentive for the group to come in with an \$800,000 budget and \$200,000 in reserves.

Mr Wilbee: In terms of "Why bother?" you have to have those measurements, those outcomes, those targets, those criteria to meet. How can you evaluate whether you've met the target if you don't have that? That's essentially our point, that we need to have those benchmarks. Your initial question was, why bother?

Mr Skarica: Yes, but to my mind, you also have to have that in or what's the point? I can see already that with a lot of the restructuring we've done, the same people are showing up elsewhere with the same salaries, so the public's not any further ahead.

Mr Wilbee: As a volunteer and a citizen, I think this is an exciting time. It's a great challenging time, no doubt about that, but clearly, with the pressures on us—and I think your colleague is quite correct in the sense that no way should there be any less scrutiny of how the system is looked at to make sure it is effective and efficient, but again, you have to have those tools with which to do it.

Mr Skarica: And we're not cutting Mr Pouliot's pension.

Mr Hastings: We're all focused here on financial planning, stability planning, that we have to accommodate these efficiencies etc, but I don't see any reference in your financial thinking to how we would deal with catastrophic, cataclysmic diseases should they arise, and they're on the horizon, for example, AIDS.

Mr Colle: Close down that Ebola health thing.

Mr Hastings: Ebola was a minor thing when you look at—but the number of TB carriers coming into the country. They're here, but public health people, at least some of them, don't seem to want to deal with or even talk publicly about this kind of stuff. How do your financial proposals try to accommodate or anticipate these kinds of disruptions, or whatever word you'd use?

Mr Gunning: One approach I've heard about recently is that if you took the \$17.4 billion and an agreed-upon percentage of that was considered a risk pool, and within that risk pool, if there was a major catastrophe—say a tornado blew down the Owen Sound Regional Health

Centre, for an example, or there's an epidemic—that's what funds it. It's not an unfunded liability; it's that over the next five, 10 years you would take a piece of that \$17.4 billion and put it in.

Mr Hastings: You set aside or find the bucks within the \$17.4 billion.

Mr Gunning: Yes.

The Chair: Gentlemen, thank you very much for your presentation. We appreciate it.

Committee members, the committee stands adjourned until this time next week.

The committee adjourned at 1209.

CONTENTS

Thursday 25 April 1996

Audit Act Amendments	P-229
Co-operative Housing Federation of Canada, Ontario Region	P-229
Bill Morris, manager, government relations	
Association of District Health Councils of Ontario	P-233
Gord Gunning, executive director	
Jeff Wilbee, treasurer	

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= P72

P-14



P-14

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First Session, 36th Parliament

Official Report of Debates (Hansard)

Thursday 9 May 1996

Standing committee on public accounts

Annual report,
Provincial Auditor, 1995
Ontario Board of Parole

Chair: Dalton McGuinty
Clerk: Todd Decker

Assemblée législative de l'Ontario

Première session, 36^e législature

Journal des débats (Hansard)

Jeudi 9 mai 1996

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 9 May 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 9 mai 1996

*The committee met at 1007 in room 228.*1995 ANNUAL REPORT, PROVINCIAL AUDITOR
ONTARIO BOARD OF PAROLE

The Vice-Chair (Mr Mike Colle): We're still waiting for a member of the third party, but they're on their way. I think we'll begin since we have our witnesses here. I wonder if you could identify yourselves first.

MINISTRY OF THE SOLICITOR GENERAL
AND CORRECTIONAL SERVICES
ONTARIO BOARD OF PAROLE

Mr Paul Fleury: I'm Paul Fleury, the director of the operational support and coordination branch of the Ministry of the Solicitor General and Correctional Services.

Ms Frances McKeague: I'm Frances McKeague, the manager of adult community services with the operational support and coordination branch.

Mr Ken Sandhu: I'm Ken Sandhu, the chair of the Ontario Board of Parole.

The Vice-Chair: Thank you for coming here. I think Mr Sandhu's been here before. Paul, I'm not sure if you've been.

Mr Fleury: No, I haven't.

The Vice-Chair: Thanks for coming, and we appreciate the time on this.

Essentially, members of the committee, what we have before us is the report on the implementation of the recommendations of the Provincial Auditor, the action plan and status. Perhaps we could have some comments from our witnesses on that and see if we, as members of the committee, want to pose some questions on it and see if there are any implications of what is before us. We'll proceed in that fashion. I'll leave it open to the witnesses.

Mr Sandhu: We were given a few questions by Mr Decker, the clerk. Presumably those questions had come up at your last meeting. We have prepared answers to those questions and we could respond, or if you wish for us to speak in some general terms about the issue at hand, we could do that. I could speak about the parole board, to how long it's been around and what its function is and things such as that. We didn't come prepared to read out a statement as such, but there is not a problem in trying to answer any questions you might have.

The Vice-Chair: The last time the committee met, we were addressing the process of electronic monitoring and accountability in terms of the release of someone, ensuring that all the records pertinent to that person's release are before the parole board and that there's a process in place whereby these records are mandated to be before

the parole board; in other words, that there isn't a gap between what the parole board has before it to make a decision and what, let's say, the prison authorities might have in terms of records, or what the medical practitioner may have, or any other intervenors. Our main interest was ensuring that the documentation from all interested stakeholders was before the parole board and we could ensure a process was put in place where these were mandated as benchmarks and that the parole board had to sign off on these, let's say, commentaries or evaluations by the stakeholders. If I'm correct, I think that's what we were trying to get at, what we felt was a critical component of our attempt to put some more accountability in the process, and a bit more comfort with the process. If you can address that, that's the thrust we ended up with last time.

Mr Sandhu: What we have done in preparation to respond to that question is bring with us some files. If the members are interested, they could actually have a look at the kind of information that exists in our files. It's just that we would not want to read any identifying information into the record because of the freedom of information act. But the members are quite welcome to look through to see what sort of information the board members review before making a decision.

In terms of the concerns around whether or not the information is now coming to the board, I will respond to that. That clearly was the very first recommendation of the auditor. That was the very first recommendation of Bonnie Wein, who did a review of a case back in 1993. Historically, that has been probably one of the biggest problems that the provincial parole board has faced and that, my knowledge is, to some extent the national board also has faced.

It stemmed from the fact that the front end of the system — that is, the police and the courts — either felt that the information that was generated at their levels was not required at the back end of the system — that is, the corrections and parole decision-making — or that there were never enough resources to pass that information on.

This problem has existed for a long while, and attempts to try and resolve these issues in the past were not very successful simply because if we were to approach the crowns, for example, at the court level, the crowns would say: "We have no problem. Here are our filing cabinets. You come and get what you want." They didn't have the resources to photocopy everything and send it on.

Perhaps there was also a sense in the past that the correctional and parole decision-making system really didn't need all that. After all, these are people who are going into the system for a short while and what's the big

deal? Their job is to hold them in custody and that's about it. But the difficulty with that thinking is that some very key, crucial decisions have to be made after a person is sentenced to incarceration.

That's a background as to why we were not receiving information in the past. Let me go on and say that over the past two and a half years or so, and it started with the investigation that was carried out by Bonnie Wein, we have been working hard to try and get that information. It became obvious to us that there was a need to make sure that both the information from the front end of the system and the information from within the correctional system was collected in a way in which it would be useful to the parole board members. In that regard, several changes have been made. I can list the kind of information that we look at at this point, if you like, and that'll give you some idea.

Let me start off by saying that at the time of a hearing the way the process unfolds for us is that the parole board members will usually meet in the morning. If there are, let's say, four cases scheduled for the day — and that's about the average for us across the province — they will meet in the morning. We'll start fairly early and our operation is that we will review all of the information. By noon, we will have made notes. We have a fairly structured system of making notes. I've also brought copies of the parole consideration form with me which, if the members like, I can leave here and you can look at.

This form captures the tombstone information at the top, then has a list of documents reviewed, and then we go on and make notes under the two criteria that are spelled out in the federal legislation. The same two criteria are used by all parole boards across Canada, including the federal parole board. The first criterion is, "Will society be placed at undue risk if the offender reoffends while on parole?" That part is broken out in terms of the current offences, previous offences, and under each criterion there are a number of very specific factors that we will check off. Those factors are usually yes, no or unclear answers.

The process for us then becomes one where, after reviewing the information, we make notes on what kind of questions and issues we need to have resolved at the time of the hearing. The hearings will take place usually in the afternoon, and they last about an hour each, on average. We audiotape all our proceedings.

The last time the Provincial Auditor reviewed us, in 1989, their finding was that in looking at our files it wasn't very clear to them how we had reached a certain decision. At that time, our process was a little more vague and general. The form you are going to see, which is a little more structured now, in the past was not so structured. It simply had wide-open spaces where people would sit down and make notes. As a result of those recommendations, we introduced this more structured form along with audiotaping all our hearings. That provides a fairly good record in terms of what went on, what was said and why the decision was reached as it was. Once you get to see the form, you will see more clearly how the process unfolds for us at that level. In the meantime, let me very quickly point out to you what kind of information does come before us.

For all cases, we must have the information on current charges, dispositions and sentence. This information generally is contained in a ministry's offender management system client profile, which is a computer form — again, there are copies of that in the file, if you wish to actually see it — and information on previous criminal history, and this may be in the form of an RCMP criminal record or it may be included in one of the pre-parole reports. There is an institutional report, and that speaks to the behaviour of the offender while the person is in prison.

Then there is a most significant document for us, which is the pre-parole report, which is prepared by a probation and parole officer in the community after doing a home visit and checking out to see where this person's going to live and what he's going to do — Is he going to attend school? Is he going to be employed? — and checking with the employer to see if everything is as the person has stated in his or her pre-release plan.

That pre-parole report must be there, and in that report a number of other issues or other areas are also checked out; as I mentioned, residential confirmation. Often there's also a CPIC — Canadian Police Information Centre — check done to determine whether there are any outstanding warrants or any other criminal charges.

1020

There's also an area where the police comments about the suitability of parole are captured. In other words, in every case, the parole officer will contact the local police department and ask for their views on what they think about the release. Comments on the offender's prior response to community are captured in there. In a number of cases, people have been on probation —

The Vice-Chair: Excuse me. I missed that.

Mr Sandhu: The prior response on community supervision — in other words, if the person's been on probation or parole before, then how did he or she fare while they were on community supervision? A notation regarding alcohol or drug dependencies, emotional or psychiatric disabilities is also made there. Then, of course, the statement about the probation and parole officer's support or non-support for the offender's release in the form of a recommendation is often captured in it.

Then there are recommendations for any special conditions. If the parole officer feels that in this particular instance there is such-and-such program that this person will benefit from in the community, that is mentioned. Or if in the process of investigation, the parole officer finds there is a need to have a curfew, and to say, "You shall not leave your residence after 11 o'clock," those kinds of special conditions are mentioned in this report, which the parole board members would take into consideration at the time of making a decision.

The Vice-Chair: If I could just interrupt, if there's a case that — was it the Suzack case? Has the system been changed after that, or were these checks and balances in place before that?

Mr Sandhu: There's been considerable change since then. Let me say that the system has been tightened and a number of safeguards have been built in which were not there before. One of the very key safeguards, a key change that we have brought about, is that we used to

have a policy that if some of this information was not present and the hearing chair of that particular panel determined that it wasn't going to be coming, then we would proceed. The right to proceed was there and was discretionary in all cases. That right has now been removed, and that perhaps is the most significant, from our point of view.

In addition to that, a number of other changes have been brought about. The system now has a 24-hour on-call system for police to contact someone from the correctional services, from probation and parole area, to discuss a case where there might be some reoffending going on. We didn't have that before. That was put in place, and on a 24-hour basis people from correctional services have access to the offender management system. They can pull up the background of the case and then work with the police to either issue a warrant or discuss the case particulars.

There is a whole list of changes that we have made. But let me say that, from our point of view, there were a number of things going on that the system had taken for granted and started to think that things couldn't go wrong, because we were basically looking at not very high-risk cases. That particular case sent a very clear message to us that we were not looking at boy scouts, as you would, through the system at all times, that there are some fairly serious cases.

We no longer release people to certain kinds of residences where we know that the security level is not very good or the supervision level is not good. We make sure that the travel plans from point A to point B, every bit of movement, is captured and approved and monitored while the person is on parole. All those types of changes have come about since then.

The Vice-Chair: I guess the other concern we have as a committee is about people who have a past history of violence or habitual histories of paedophilia. Do any alarm bells go off? I think the community is very concerned about those two main areas. Are there any kind of added checks we could put into the system to ensure that people with that kind of documented past history are given this extra look before they're released, or is that already in place?

Mr Sandhu: We noticed in your questions that there was a question pertaining to police information and information to the community. Let me answer it by saying, please understand that in the provincial system what you're looking at are people who are sentenced to two years less a day, the maximum sentence. The way the system works for us is that if there is what's known as a "dangerous offender" who comes before the parole board, there is no way that person is going to get paroled in our system, simply because we have determined the risk to be too high. In that instance, the parole board is not involved in putting up any warning signals of any kind.

However, any person released by the parole board, we pass on a picture which the correctional services provides to us, an up-to-date picture, we give notice of release information to the police and, in fact, in our legislation there is a requirement that this person will report to the police on a regular basis.

I think society's or the community's concerns around your more serious offenders are coming from the federal

system in which there are some fairly serious offenders, and some of them get to the point of their mandatory release, or what have you, and at that point all kinds of concerns do come up.

Our feeling is that if there was someone who was convicted of those kinds of offences, and even if somehow we missed it — I heard the last time I was here a concern of that nature — I wanted to say it would be very simple, if there was anyone out there who had any concern, to simply get in touch with the parole officer in this case and say: "Here's the situation. Is this person not convicted of some crime against children? He seemingly is living very close to the school and what kind of safeguards are there?" It wouldn't be very difficult for the system to respond to that. The police would be informed the same way.

There isn't a need for somebody to sit there and monitor his activities all the time, no. But the difficulty comes in at the level where people have met their legal obligation and, you see, the justice system has very little control. That's the problem that I think, by and large, causes concern for the community. In that regard, what is needed are safeguards in legislation and perhaps the desire and the need to look at what kind of controls can be put on those beyond their mandatory supervision period.

The Vice-Chair: I know you've got essentially persons on two years less a day, minor offences, but let's say that person's already served a number of sentences for more serious crimes, maybe federal institutions or whatever. If he or she then commits a more minor crime, is there any connection between the past history of serious crimes and then coming before the parole board on this minor offence? Are they taken into account, or do you just look at the minor provincial record?

Mr Sandhu: No, sir. That's exactly what I wanted to show you, if you all have the form. If you would turn to the parole consideration form, front page, you will see that under A where the criteria speaks to, "Will society be placed at undue risk if the offender reoffends while on parole?" The first area there that we fill out is the current offences. The second is the previous offences. So from our point of view those are taken together. They are just as important to us. It's just as important to us to know what this person's been doing in the past, what kind of offences there have been.

1030

Yes, as you say, there are some cases where someone might have served a federal time and may have a very lengthy previous criminal record and comes back into the provincial system for a minor offence. For us to assess risk — and perhaps I'll ask my colleagues from correctional services to speak about the new instrument that places a numerical weight to those past offences and how that translates into an assessment of risk.

The Vice-Chair: But you do get those federal records, their history and their behaviour in federal correctional institutions and the comments from those officials there? Are they before the provincial board?

Mr Sandhu: Let me say that we get summarized information from the federal system in the event where we're looking at an offender who might have been in the

federal system. The flow of information from the federal to the provincial correctional system is not a problem because they, in fact, want more from us than we want from them. There are not that many who come into our system who've been in there. Usually the way it works is that there is a progressive nature to it and that's the way they usually flow. But, yes, there isn't a problem and it's just that in those cases we do have to ask for it and we get it.

Ms McKeague: The risk assessment instrument that Mr Sandhu was referring to was recently reintroduced in Ontario in the first part of January of this year. It was based on an extensive review of the literature, but also we went back and reviewed and revised our previous risk assessment instrument called the level of supervision inventory. The new instrument, called the level of service inventory (Ontario revision), is now being used in all institutions and all probation and parole offices as soon as the inmate or the probationer or parolee's foot actually hits the door of the institution or the office itself.

The risk assessment instrument looks at eight major areas in an offender's history, or life really, and these eight areas are all positively correlated with the risk for reoffending. Really, that's what a risk assessment instrument is; it predicts future reoffending. We look at that prediction in developing and devising programs, but also in giving information to conditional release folks like the Ontario Board of Parole or our temporary absence people in institutions as well.

In assessing the offender's risk for reoffending we look at such factors as criminal history, and that includes both current and previous. It is incumbent upon all of our employees doing this assessment to get police occurrence reports not only for the current offence but the entire history, including the young offender history as well. We take a very serious look at what this person has been doing criminality-wise throughout their career.

Other areas we look at include education, employment, family history or family dysfunction, leisure recreation, companions — and what we mean by "companions" is an over-reliance on the pro-criminal or antisocial sort of associate. We look at issues like their attitude towards criminality, which is one of the big areas we assess around risk: What are they thinking and what are they feeling about themselves in relation to criminality? For example, statements like: "Nobody got hurt. It's just big business. So what?" that sort of thing is an indication of future risk.

We look at substance abuse, of course, a history and current, and last, we look at what we call an antisocial pattern. We look at such indicators as a history or a current diagnosis of mental disorder, for example. Some of our colleagues would call it a diagnosis of psychopathy. We look at what their young offender history has been, whether there has been an extensive or early pattern of what we call anti-social behaviour too. We look at a number of factors when we're assessing risk, and the parole board, when they're making their decision, have that risk assessment instrument with them, which is used in their deliberations as well.

The level-of-service inventory, however, isn't just an indicator of all those risk factors. What we are trying to

do in correctional services is use that information in what we call a risk management approach. Part of that is identifying those offenders who are at the highest risk for reoffending and then gearing our resources accordingly. For example, if we're looking at offenders who have a very high risk for reoffending, we will want to look at what is the most appropriate kind of intervention that should be provided for those people.

We introduced that in January. Over 1,000 of our staff were trained last fall. We're doing an extensive research and evaluation on the instrument, not only in Ontario but in other jurisdictions. It was developed by Dr Andrews at Carleton University, but there has also been extensive work done on the instrument at the University of New Brunswick.

I should add that Ontario's history with risk assessment is very impressive because a lot of this work started in the correctional system here in Ontario and is now in such jurisdictions as Colorado, New York state and a number of others in the United States, in Great Britain, Australia and New Zealand.

We're looking at two areas of research that I referred to. One is qualitative, where we're looking at information that's being collected on risk assessment, how practitioners are filling out the forms, whether there is consistent use of it and that sort of thing. We're looking at a quality assurance type of research on that so that there's consistent application across the board. The second area of research is more quantitative or empirical, where each of the scores in each area that I mentioned is registered on our offender management system. We're going to use that information in program development, making policy decisions and that sort of thing.

There's been considerable interest in this instrument at the academic level and, as far as I'm aware, two PhD students out of Ottawa are going to be working on the evaluation as well. The longitudinal research on the instrument is being conducted in the eastern region of the province, where we first pilot-tested the instrument, and we're going to be rolling up the figures on that within the next two months because we have to have a period of time before we've introduced an instrument before we can do that sort of research.

The Vice-Chair: If any members of the committee have questions, perhaps now is the time.

Mr Bruce Crozier (Essex South): It would be helpful to tell us what FPS is on this parole consideration form.

Mr Sandhu: It's the fingerprint service of the RCMP. PPR stands for the pre-parole report that I referred to earlier. PSR is a pre-sentence report which is done at the request of a judge at the time of sentencing.

Mr Crozier: That's fine. In this pre-parole report, to what extent is the applicant interviewed? Are the persons applying for parole interviewed extensively with a series of questions even prior to coming before the board so that you have some consideration as to what they might have said?

Ms McKeague: Yes, they are. In all the major institutions and in the smaller ones we have what is called the institution liaison officer, a probation and parole officer appointed to that position who does an in-depth interview with each inmate applying for parole. They ask them a

list of questions, including what their plans are for release. That's really the job of the parole officer in the field, to verify those plans.

The other interviews that are done in the institution are what we call professional or clinical assessments. All of what Mr Sandhu referred to as level 1 offenders, those serious offenders applying for parole, have to have this clinical assessment done on them which relates the risk assessment to their plans for release. That takes a look at issues like mental and emotional health and relates that to the risk of reoffending and that sort of thing. There is quite an interview process done with inmates prior to their appearing before the parole board.

1040

Mr Crozier: I take it that we haven't dealt with the question on the per diem costs of incarceration and halfway house residency, the first question in the letter. If it's appropriate, maybe we can get that information now.

Mr Fleury: In addressing that question, one part is what are the per diem costs? I must say adult institution per diem costs vary, but we have a provincial average. That provincial average for adult institutions was \$120.97 for the year 1994-95. When community resource centres were open, per diem costs were roughly at \$80. We also have contracts with agencies that provide residential placement, and the costs there are \$60. Those are the amounts.

When we talk about adult per diems, as we've probably noted in the past, those per diems have some great variance, which usually depends upon the design and age etc of the institutional infrastructure. We have some institutions that were built prior to 1900 that are very costly to run, and it's not based on anything other than poor design. We inherited county jails several years back, and in institutions that are designed where the sight lines etc are extremely poor, staffing costs are a lot higher and therefore the per diems are a lot higher, but on average it's \$120.97.

Mr Crozier: Without making any assumptions, what goes into those costs, if you could go over that?

Mr Fleury: Salary and benefit costs, administrative costs, realty costs and program costs, to put it simply, and we'd really be talking about minus any revenue that is derived from things such as inmates paying room and board or federal cost-sharing for the detention of immigration etc.

The Vice-Chair: The other question I have is in terms of crown attorneys. You mentioned that they may not make information available because of the lack of resources or time. Is there anything we could request that might facilitate that in terms of ensuring there is at least a written comment or assessment by the crown who was involved in a case dealing with a person who's subject to a parole where you wouldn't necessarily have to go through all the files but where you would get the crown's quick assessment, his or her input, rather than trying to do a massive search?

Mr Sandhu: Yes, sir. There are two sources of information which I think could be very helpful to us. One is just that, and anything the committee can do to encourage that this take place would be very helpful. We

find that in some cases, where the crown attorney is moved to the extent that he feels he must get in touch with us, he does that, but it's almost left as though they are afraid to and don't wish to influence our decisions. I don't know what the nature of the difficulty is, but I think any communication from crown attorneys could be helpful.

Given the nature of their work, it's not always possible; they're looking at so many cases in a day. This is why I think if Mr Skarica were here he probably could speak to it from his personal experience. My thinking is, though, that anything the committee can do to encourage the system to get closer in terms of sharing information, to develop appreciation for each other's work, would be very helpful.

I provided through Mr Decker a status report on each of the recommendations in one part of the auditor's report. The very first one deals with the judge's reasons for sentencing. We are at a stage where we are working out financial arrangements, because receiving the judge's reasons for sentencing costs money, and that money has to be paid to the person who transcribes the reasons. Those reports have been a little slower in coming to us. I believe that in principle there is a complete agreement on getting it to us; it's just that the mechanics of it are slower. It was not done and it has not been done in the past. In fact, we understand that in a very large number of cases the judges' reasons for sentencing are not even transcribed unless somebody asks for them. If the committee could say anything in that regard, that would be very helpful to us.

Mr Marcel Beaubien (Lambton): My curiosity got the best of me. Under case consideration results on the back it says that if you're a franco, they want to know which language you learned at home; if you're a native, they want to know whether that person is a North American Indian or a Metis or Inuit; but when it comes to a visible minority, you leave it up to the chair to decide whether that person's a visible minority and you cannot ask the offender. What is the rationale between those three items? You want to know if a person is of francophone descent or something, but when it's a visible minority you don't seem to be concerned whether the person understands the language; is that correct? What's the rationale between those definitions of franco, native and visible minority? Why is it in there in the first place?

Mr Sandhu: What you have on the form you refer to is the case consideration results form, not the case consideration form, which is actually a four-pager. I had brought some extra forms that we use, and this particular form is used by panel members after the hearing is completed. If you see the front part of that form, you'll see this is basically a data entry form that we use to determine who was paroled and who was not paroled.

1050

In answer to that question, as you know, under the Employment Equity Act we had to have certain kinds of information that we had to record. That's the reason why we would break it out in that fashion. We were monitoring numbers. As you've said, we wouldn't ask that of the person, but sometimes it becomes obvious or the person offers that information, and in that case we would use

those categories to make sure we captured the right information.

Ms Shelley Martel (Sudbury East): I'd like to go back to the issue of halfway houses and ask some questions on that issue. We already got the per diem rates in the halfway houses in comparison to incarceration, but can you give me a sense of where people might be receiving treatment now in terms of drugs and alcohol? I would assume that when they were in halfway houses, they were getting that treatment in a community-based setting. What's happening to those folks now? If they are receiving that while they are incarcerated, was there an increase in staff to deal with that increase in people back in institutions?

Mr Fleury: Certainly I believe every institution has programming that pertains to substance abuse issues, and substance abuse programs. I think there are opportunities for people, for example, to go to AA and go to treatment programs in institutions.

As to your point that there were some who were out in community resource centres or halfway houses, and did they have more accessibility to programming, certainly most of those community resource centres did have programs, but a lot of them were very heavily linked to existing programs in communities. In other words, a lot of people were going from those CRCs to programs in their respective communities.

The other point I'd like to make is that of the total inmate population we have in the system — we're talking about 7,300 or 7,400 now — we're really talking a very low percentage who were in community resource centres.

The reason I raise that is that the vast majority of those people who were in those community resource centres were extremely low risk. Had they been released straight on to the street, they had a lot of capability to access services that were already out there in the community, available to every community as they exist today.

Ms Martel: But you had about 400 beds, as I understand it, that were closed as a consequence of closing the halfway houses.

Mr Fleury: Right.

Ms Martel: I'm not sure if those 400 beds actually represent 400 people, and of that how many of those folks would have been receiving some kind of counselling services in an effort to reintegrate them fully into the community. I guess my concern would be, do you have any sense of what those numbers were and what kind of treatment, if any, those folks are receiving now? I don't think there was an increase in staffing in institutions around counsellors to deal with those people coming back into the institution, so are they receiving any service at all, or was there a big portion who were receiving services in the community in the first place who would need it now that they're back in the institution?

Mr Fleury: I don't have specific figures. Again, when we look at the 400 or so folks who were in those places, certainly there were a large number who weren't there for substance abuse issues. Some were there for reasons such as they didn't really have a place to go, and that was the only reason they were being detained, that they couldn't get parole or whatever, or temporary absence. So when we break that down, the numbers that would actually be

attending a substance abuse program I believe would be a limited number and they could access those types of services elsewhere.

Ms Martel: If some of those folks, as you said, were in there because they didn't have anywhere else to go, I take it from that answer that the ministry has not seen an increase in either temporary absences or parole in response to people coming back into institutions, in terms of trying to cope with additional numbers coming back into the system.

Mr Fleury: We haven't seen a significant increase as a result of the closure of community resource centres, no.

Ms Martel: You had mentioned earlier as well about some of the costs for institutions being related to just physical plant and the date of that physical plant or how energy-efficient or not energy-efficient it was. I noted in the budget that under the section entitled "Safe Communities" there was a commitment made by the government to have "a major capital investment," it says, "to modernize correctional facilities and courthouses." Do you have any of the details of that? Are we talking about a significant expansion and closure of some of the outdated or older facilities?

Mr Fleury: Certainly that budget announcement has just been made, and the details of that I am not fully apprised of.

Ms Martel: There was a second issue around the same details called Safe Communities that said, "To ensure funding is available for front-line services in the justice system, we are going to integrate administrative support services to achieve maximum efficiency." Do you have any idea what that reference was to?

Mr Fleury: At this point all I can say is that we are a system that recognizes that we need to be more efficient than we are and that there are assessments going on as to how we can be more efficient. We're at a very early phase of that at this point in time.

Ms Martel: Do you think that's going to result in layoffs?

Mr Fleury: I don't know at this point. All I can say is I think we need to identify — because we have in some situations very high per diems. It really can't be justified. We have some of the highest per diems in North America in institutional programming. So there's no doubt that we as a management team in the ministry, and in conjunction with the minister's office, have to take steps to see what we can do about that. What those actual steps are at this point in time I can't say.

Ms Martel: Mr Chair, I wonder if I can ask Mr Sandhu a question about the review of the parole board. I'm not sure if you were asked this question before I got here, so I apologize if I'm repeating myself.

The minister made an announcement some time ago appointing Mr Drinkwater to review the operations and the mandate of the Ontario parole board. My understanding was that the review was to be given back sometime at the beginning of March, around March 1, actually. Were you or any members of the board involved in any aspect of that?

Mr Sandhu: Yes. I met with Mr Drinkwater and answered a series of questions. I provided information that he had requested. Now I understand that there was an

extension involved beyond the March 1 date. Other than that, I can't tell you any more because I don't know any more about the report as to whether it's been finalized or not.

Ms Martel: If I might, the nature of the questions that would have been directed to you, was that questions around efficiencies or inefficiencies of how the board worked, any issues around appointments to the board, training, qualifications of appointees etc?

Mr Sandhu: Yes. Mr Drinkwater asked questions about all of those areas and wanted to get generally a good understanding of how the board worked. His questions were around all of that. We had suggested that he could observe a hearing, but I'm not sure if it happened. I don't think it happened. I think the strike intervened in some ways and delayed some other things that we thought he was going to do at the time. But yes, he asked questions about the whole operation of the board.

1100

Ms Martel: I'm just curious; I know a number of appointments were made before the review was actually announced, which I found to be quite curious. I think 34 people were appointed. Have there been any new appointees since the large number of 34 were appointed by the minister several months ago?

Mr Sandhu: Yes, I believe there were a few others after that announcement, and those were largely in the areas where there had been a delay either in finding the appropriate members or what have you or they were simply not ready to go through the process at that point. I couldn't tell you exactly how many or where they were, but there were a few after that.

Ms Martel: Could you tell me if they were advertised?

Mr Sandhu: To my knowledge, there was not an ad in the paper, but perhaps the public appointments secretariat could respond to the process. Certainly we had some applications that were in our files. As you know, as the chair, I get applications. We had sent those forward, and also the public appointments secretariat gets a very large number of applications. So whether or not a specific ad was placed in the paper, I couldn't tell you. I don't think there was one.

Ms Martel: Can you tell me what your involvement is around the appointments? Are you asked for your opinion? Do you meet with any of the candidates? How does that work?

Mr Sandhu: All full-time appointments — of which there were not that many; there were a couple of new full-time appointments made — there were actual interviews conducted on those. I was involved in each of the interviews. We reached this agreement very early on in the process. That was extremely important, that I be involved in those, because as you know, full-time member positions are sort of the workhorses of the organization.

Part-time members, again, we had a number of applications that were, as I said, already in the process, in the system, either at the public appointments secretariat level or in our office. Wherever I knew of the candidates or wherever I'd had a chance to talk to the candidates, I provided my comments and put forward the applications.

There was a brief discussion around those candidates and then the final decisions were made at the public appointments secretariat level. There was, generally speaking, an agreement and understanding about who and what kind of persons we were looking at or were going to be interested in looking at. That's how the process unfolded.

Ms Martel: You said there's a general understanding of who you wanted. I'm assuming that also means what kind of qualifications people will have?

Mr Sandhu: Yes.

Ms Martel: Who made those determinations about those criteria about who you were looking for and what their qualifications might be?

Mr Sandhu: We made those jointly between the minister's office and my office.

Ms Martel: Did that include the 34 appointments that were made en masse by the minister?

Mr Sandhu: Yes, there was general discussion on qualifications and background of people we were interested in.

Ms Martel: What, if any, is a ranking that would be given to people, for example, around a qualification that they have some knowledge of the legal system, the justice system, some involvement at the community level, the John Howard Society, E. Fry etc?

Mr Sandhu: Clearly, our criteria or our requirement was that we needed to have a very good and strong representation of people with a criminal justice background, because I believe that the conditional release system works very much as a part of the justice system. In fact, it has to be understood that it is an arm of the justice system, and so we needed representatives of the justice system, especially people who may have handled and worked with criminals, with offenders, people with knowledge of offenders. So with that in mind, we wanted to increase the representation of those types of people at the board. As a result of the appointments that have been made, roughly half of the members are from the criminal justice background.

Ms Martel: Half of the members of those who have been appointed since the new government? Is that what you're making your reference to?

Mr Sandhu: No, I'm saying that at the present time, of all the members we have.

Ms Martel: Can I ask how many members that is? I don't know.

Mr Sandhu: We now have about 70 part-time and about 13 full-time, including myself.

Ms Martel: Do you have vacancies at this point?

Mr Sandhu: We have vacancies but we're also at the stage where we are reviewing. As you know, our quorum size has been reduced, which we wanted to do. So we're in the process of reviewing and determining whether or not we need to fill them. I know that strategically, looking at certain areas, we need to fill perhaps in one or two areas, but not in all the other areas. So let me say that yes, there are vacancies but they are not all of the ones that are vacant because we might not need that many once we have completed our review under the reduction to a two-person quorum.

Ms Martel: Just on that, in terms of the reduction, was it the board then that made a recommendation to the minister to have that change reflected in Bill 26?

Mr Sandhu: Yes.

Ms Martel: With that change, are you going to be able to guarantee, for example, that you continue to have some appropriate balance around regional representation? Is that also a consideration?

Mr Sandhu: Very much so. In fact, as I've said, out of the 83 or so, half of them are from a justice background. In fact, the challenge for us is to make sure that we keep that balance.

We also consider this a strength of this organization. As you all well know, within the justice system there are very few places where the community members, the citizens, can have input or have an actual role. The parole area is one of those where they can. It is certainly our recommendation that we wouldn't want to give that up because we feel that what makes the difference is essentially people, let's say from your community, making decisions about people who are going to come to your community to live. It's not someone from Toronto making decisions about someone in Kenora to be paroled.

That's very much the way we're still approaching it. It's just that with the two-person quorum, the size of the board has already shrunk and probably will shrink a little more.

Ms Martel: I want to raise this question in the context of the appointments again, because it is well known I think to all members that a particular appointment was made where we felt the individual had no criminal justice background whatsoever; had a political affiliation to the government. But certainly, if you're talking about the board having some criteria that are pretty important to board members around people's understanding, knowledge of and working within the justice system at whatever range, some of these folks wouldn't have had that at all.

I'm curious as to whether there were any appointments made that you felt were inappropriate because the folks involved really didn't have that kind of qualification, didn't meet any of the criteria that had been set out between yourself, your board and the minister's office around who you were looking for, what kind of candidates and what qualifications they should have.

Mr Dave Boushy (Sarnia): If I may, if he could answer also the question whether the same answer applies to the appointments of previous governments as well.

1110

Ms Martel: Absolutely.

Mr Boushy: That would be very helpful. In answering her question about political backgrounds and involvements, I wonder if there's much difference between appointments of this government and appointments of the last government. Is there any difference?

Mr Sandhu: Let me answer it this way: I've been at the parole board since 1988, and I've had the honour of serving under Liberals, NDP and now Conservatives. I don't believe there is any government that ever wants to appoint anybody who is not a suitable, good-calibre candidate. If someone slips through, then we have performance assessment and appraisal processes that hopefully we can invoke to catch that and suggest that those people not go on. That happens at times. In fact, those people might be fine candidates or fine members, but changes take place.

My answer to the question you raised is that I don't have to tell you that this is a political process; it's not a civil service process. As the chair, I was consulted. It was discussed with me. I was able to put forward names and applications and résumés that I had received, and the minister's office did the same. In fact, it's been difficult, because I know that some people who were hoping to be reappointed and were not reappointed ended up thinking their performance was somehow not up to par. But that was not the reason why they were not reappointed.

Really what happened was the desire to bring about this balance, so to speak, under the criteria that there shall be people with criminal justice backgrounds as well as the so-called community representatives. Those kinds of decisions were made. Those of us who had worked with some of those members who were not reappointed, we felt quite bad. We thought they were fine people. But at the same time, you see, these other overriding concerns were very much present. So that's why those kinds of appointments were made. I'm not sure I can say any more about it.

Ms Martel: Can you tell me, of the members who weren't reappointed, how many had a criminal justice background? How many would have been people who in fact had good, solid experience not only in the community but in working with offenders, young offenders, people in halfway houses, women who were in trouble with the law etc?

Mr Sandhu: I can't tell you offhand, but I think that in some instances you have to understand that downsizing played a role, because we knew we were not going to have as many people on the board. The whole justice system is operating under the premise that it will be smaller and more efficient. So that played a role. In a number of cases, I'm still in contact with a number of those board members. Some of them have now gone on to the National Parole Board and are members there. I was quite pleased to write letters of reference. I think that, like I said, the decisions were based more on that set of criteria rather than anything personal.

Ms Martel: I don't expect you to answer this, but if people were qualified enough to go to the National Parole Board, they shouldn't have been let off our parole board, right? What sense does that make?

The Acting Chair (Mr Bruce Crozier): Ms Martel, just so the Chair knows the way the clock is going, you've had the floor for a considerable length of time. I have a couple of others on the list, and then we can come back to you. You'd like to do that?

Ms Martel: Go around in a rotation, sure.

Mr Boushy: Just a very brief question. I know what the member across is trying to get at. We're not that naïve. I just want an answer from you. Is this process with this government any different from the process of the last government, of the NDP; yes or no?

Mr Sandhu: Well, a slight difference, but I think the difference was that when some of these appointments were being considered we were one of the first ones, you see, to come up for this. I don't think the public appointments secretariat was operating in the same manner as it was when the NDP left. There's a whole office attached to the Premier's office, the public appointments secre-

tariat, and I think they were not even fully operational yet when these set of decisions were made. Since then, since it's come into force, the process is the same.

Mr Boushy: The process is the same. Do these appointments go through the committee? Mr Chairman, maybe you could help me. The names go through the same process as any other appointments, through all-party committees, for screening before they're appointed?

The Acting Chair: If you're asking if they come before the government agencies, the orders in council for appointments do come to the government agencies committee.

Mr Boushy: All party members of that committee look at the names?

The Acting Chair: Yes.

Mr Boushy: So what's all this questioning about?

The Acting Chair: Well, just when you asked about the process. Each of the parties then can select individuals to come before the committee and they then vote on concurrence, but that really has no effect. The appointment can still go ahead even if the committee did not concur on the appointment. But the list does come, to answer your question; yes. Is that all okay?

I had a couple of questions, but since I'm in the Chair I'll go back to Ms Martel.

Ms Martel: Let me say this: The chair has said to us that some of the people who were let go, not reappointed, to the Ontario Parole Board then went on to the National Parole Board. I find that a bizarre circumstance, that people who obviously were pretty well qualified, if they then went on to the National Parole Board and were acceptable there were let go from ours. Why would we, if we're really interested in a system that has some continuity with very capable people, have ever let those folks go?

Mr Sandhu: In each of those cases location was different. They were in an area which was obviously up for downsizing. We were looking at cutting back. The question arose: What can we do? The financial issues played a role. Again, as I've said, in almost every one of those instances I've certainly been in contact and I've explained to them the reasons, as best as I could, that caused it. National Parole Board had the vacancies. They were looking at appointing. We were not.

Ms Martel: You said that financial measures played a role, but the minister appointed 34 people all at once. So I'm missing the financial implications there.

Secondly, what I found even more curious about the appointments was, a number of people were appointed and then suddenly we were told that there was going to be a review of the system. For the life of me, it didn't make much sense at all to me to appoint a whole number of new people, 34, which doesn't seem to me to be a fiscal problem whatsoever, and then after doing that announce we're going to have a review. I suspect the review is going to involve or suggest some downsizing. So there's quite a contradiction there that I don't understand at all.

Mr Sandhu: The 34 that you're referring to, Ms Martel, were all part-time. There were only two full-time. The costs around part-time members are very different from the full-time, and the large amount of savings that we realized came from our full-time positions.

1120

As to the issue of why appoint people and then announce the review, I believe, as best as I can tell, that was simply once again the government trying to determine whether this organization is a viable organization, is one that meets the criteria, that is achieving its purpose. I think those kinds of questions might have been coming at that point when the questions about appointments were being considered. I can't tell you why the timing was such that it happened, other than what I have just said. I think this was simply the government attempting to establish whether this could be done differently. That's why the whole issue of, can the National Parole Board do the same job? That's one of the questions that was asked of us, and certainly we could respond to that. But that's all I can say. Maybe there were some other reasons, but that's how I understood it to be.

Ms Martel: How many full-time positions have either become part time or have been lost? You indicated that you found a large amount of savings from full-time positions being lost. Did I understand you correctly?

Mr Sandhu: Approximately two to three years ago we have now scaled back by about six positions full-time; with part-time, once again the highest numbers we had on the board were around 100, and we're now down to 70.

Ms Martel: And you will leave some of those positions vacant until you have a clearer sense of what the review will entail?

Mr Sandhu: That's right.

Ms Martel: Do you have any sense of what the savings is to the board around the change in number for quorum from three to two people? Maybe I should be better asking the ministry.

Mr Sandhu: No, I can answer that; we manage the budgets. We had projected savings of about \$300,000 with that.

Ms Martel: Was that money to be reinvested somewhere else in that parole system? Is that a fair question to ask you, or shall I ask the ministry staff? Have the savings been realized and have they been reinvested?

Mr Sandhu: I don't know if they can answer. All I know is that we have given it up from our budget. It might be a part of the overall savings that the government is realizing.

Ms Martel: I'll ask the ministry staff. If it's already coming out of your budget, has that money been reinvested somewhere else in the system?

Mr Fleury: The specifics of that I would have to get back to you on, but my initial thought would be that the money has been a cost-saving measure.

The Acting Chair: I have a couple of questions, if the committee will indulge me. The Chair who was sitting here an hour ago asked questions.

In our discussion last week, if I recall — and it's helpful that you're here today — one of the government members raised the point that perhaps there should be some way to rate the decisions of parole board members; in other words, if a parole board committee that's struck paroles a person and that person reoffends, this somehow should be on the parole board's decision record. Do you have any opinion on that?

Mr Sandhu: Yes, sir. We instituted a process from the fiscal year 1994-95 whereby we now do a review every time a parolee reoffends while on parole with one of those level 1 offences; those are your more serious, violent offences. We do a review, just as the correctional services division does a review on that same case, and we try and determine what went wrong.

The information concerning who was on that quorum or that panel that made the decision is with me, but I don't necessarily have a chart where I say, "So many strikes against so-and-so," because the process of re-offending could involve many factors; it might not be related to the original decision.

But what we are doing as a result of that process is that we are looking at each and every case and going back to the members and reviewing the case, just as the correctional services division is doing with its parole supervisors.

For the first year that we kept this process in place, for 1994-95, we had 61 cases. The second year, for 1995-96, we now have 27 cases. In fact, I have been writing to my board members and congratulating them on the fact that that number is dropping. I have reason to believe it will drop further.

That is what we are doing, and I think that probably is a fairly good safeguard in trying to impress on the members that it's important.

My colleagues may wish to speak to how it's being viewed by the probation and parole staff.

Ms McKeague: We have, consistent with the Ontario Board of Parole, three processes for reviewing parolees who violate or who are charged with level 1 offences. Mr Sandhu was referring to what we call our internal review process where there is an in-depth assessment not only of the supervision that parolee received, but also the information that was provided to the parole board at the time the decision was made.

That's a key distinction we've tried to make in this process. It's not just the decision of the parole board. It is the information that the ministry is giving to those folks as well in making their decision. That information has to be high-quality or they can't make a good decision.

When we have a parolee who is charged with a level 1 offence — those are those serious ones involving sex, arson, violence or weapons — our ministry staff do a thorough review of what went right and what went wrong and that sort of thing in the case.

The other processes we're going to have in place: One is called a systemic review of parole, and that is going to be a random selection of parolees throughout the fiscal year. We haven't started that process yet, by the way, but we're wanting to get that in place by about June of this year. We will again be doing a little bit more broad-based area, and again the quality of the supervision — does it meet ministry standards? — the information that was provided to the parole board and that sort of thing.

The third process we have in place is what is called a special investigation. Thankfully, we haven't had to put this process in place, but that is where a very serious offence is alleged to have been committed while the person is on parole, for example, the Suzack incidents.

We now have a process where we have identified ministry staff who will be very quickly put into place, at a moment's notice, really, and we will be collecting files and doing a process of review at that point as well.

This has all occurred subsequent to the Wein report as well, as part of the recommendations, and is addressing those recommendations.

Mr Gary Fox (Prince Edward-Lennox-South Hastings): I'd just like to make one comment. The comment was made by Ms Martel about we lost people from our parole board to the national board, but it also went the other way. There were people who served their six-year term on the National Parole Board who came to the Ontario parole board.

Mr Sandhu: That's correct.

Ms Martel: Mr Chair, would it be possible then to get a listing of all the qualifications, background information, whatever you want, on the people who have been appointed since the new government has been in place so we can have a good look at their experience or expertise.

For the benefit of the government members, part of the reason I raise this is that it was your government, certainly your minister when he was part of the opposition, who in A Blueprint for Justice and Community Safety, a document he campaigned on, said, "In order to increase public confidence in the actions of parole boards and to prevent the appointment of unqualified persons for political reasons, we support the concept of minimum standards of experience or expertise for board members."

That's why I'm raising this issue. We all know, because the case was very well advertised in the Legislature, that the Solicitor General's campaign manager became a member of this board. We asked in the Legislature for some idea of what her experience was, either at the community level or in the criminal justice system, and there appeared to be none.

We also know that Mr Gary McNaughton was an intended appointee to the board of parole. He withdrew his application a week before he was due to appear before the government agencies committee to be reviewed by that committee as per the review process. I suspect if we were to take a look at his qualifications, we'd see that there really wasn't any experience either in the criminal justice system or with community-based agencies and that in fact it was a political appointment.

The point I'm making is that it was you folks in opposition who put a blueprint together that said we should take the politics out of this, and so far, with some of the appointments that have been made, it has been clearly demonstrated that the politics aren't out of it. That's why I've been trying to get at the issue of what criteria are in place. If we've got a list of criteria that have been developed between the board and the ministry, I would certainly like you to give it to the committee so we can see it.

Because you said you did participate in some of the interviews, I'd be interested to know if there is a select set of questions that all interviewees are asked to run through. If you can produce that and provide that to the committee, I would appreciate that as well.

I'd like to be really clear about what kind of process was put in place when people's appointments were

revoked or where they weren't appointed. Upon what grounds was that done? Were you involved as chair at all in the revocation of some of those appointments? Clearly we had some people who were very capable whose appointments were revoked but who continue to serve, albeit another government, but continue to serve, so they couldn't have been let go on the grounds of their capabilities.

I'd be interested in finding out from you, if you can submit that to the committee, what kind of review process was in place that you might have been involved in when people actually weren't reappointed, what the reasons were around the fact that those people weren't reappointed.

The Acting Chair: Mr Decker will follow up on that and hopefully we'll get that information to the committee. Any other questions or comments?

Mr Boushy: I have a comment. Just because someone doesn't have a background in the justice system doesn't mean he's not qualified. If anything, different backgrounds on any board, on any committee, might be helpful. What a member of the other side thinks that could be qualified, who is very well qualified to sit on any board or committee — I think if you look back at your government, they did the same thing. It's a political process they have to go through; he did indicate the process is almost the same. But I have no objection to the questions.

The Acting Chair: Thank you for coming to us this morning. You've been very helpful, and we appreciate your time.

If there's no other business, the committee is adjourned.

The committee adjourned at 1134.

CONTENTS

Thursday 9 May 1996

1995 annual report, Provincial Auditor: Ontario Board of Parole	P-239
Ministry of the Solicitor General and Correctional Services	P-239
Paul Fleury, director, operational support and coordination branch	
Frances McKeague, manager, adult community services, operational support and coordination branch	
Ontario Board of Parole	P-239
Ken Sandhu, chair	

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A20N
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P-15

P-15

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Journal des débats (Hansard)

Jeudi 6 June 1996



**Standing committee on
public accounts**

**Comité permanent des
comptes publics**

Audit Act amendments

Amendements à la Loi sur
la vérification des comptes publics

Chair: Dalton McGuinty
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LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Thursday 6 June 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO
COMITÉ PERMANENT DES
COMPTES PUBLICS

Jeudi 6 June 1996

The committee met at 1004 in room 228.

AUDIT ACT AMENDMENTS

The Chair (Mr Dalton McGuinty): Good morning, ladies and gentlemen. Welcome to the standing committee on public accounts. Today we are considering possible amendments to the Audit Act.

ONTARIO SCHOOL BOARD REFORM NETWORK
ORGANIZATION FOR QUALITY EDUCATION

The Chair: We're going to begin with a presentation by Mr David Hogg. I just want to let you know before we begin that we're going to allow your presentation one half-hour and we would appreciate it if you would give committee members some time to raise questions with you.

Mr David Hogg: We've made that arrangement.

Thank you very much for allowing us to be here. First of all, let me execute the introductions. I'm David Hogg, chairman of the Ontario School Board Reform Network. As a colleague I brought along a parent who is a taxpayer to the school board in which I'm a trustee, but I'm not representing the school board on this occasion. I will make some personal remarks, if I may proceed with my presentation.

The Ontario School Board Reform Network, OSBRN, is a unique association since it has as members both public and separate school board trustees. I'm here on behalf of the members to support in the strongest way the Provincial Auditor's request to have the provincial audit function's powers extended to include value-for-money audits. We believe it is imperative to have value-for-money audits apply to those agencies which spend the largest proportion of Ontario tax dollars, so in particular to school boards. To emphasize the importance of these extended powers to school board students, parents and taxpayers, I would like to use as an illustration some parallels and examples.

Which of us would accept a transfusion of blood which had not been exhaustively tested to ensure there would be no subsequent adverse or even fatal effects? Which of us would use any drug for which we had no assurance that it had been subjected to a minutely rigorous validation regimen as to its effectiveness? Would we not also want to be reassured there were no adverse or dangerous side-effects?

On February 19, 1993, the Ministry of Education and Training mandated implementation in three years of the Common Curriculum, Grades 1-9, for Ontario students beginning in September 1993. The document was a vague prescriptive for learning in Ontario schools. It was barely

intelligible and had to be rewritten, ostensibly to make it understandable to the public. Ironically, the rewritten version became the text used by those teachers who were prepared to make any attempt to read it.

One of the destructive components of the Common Curriculum, Grades 1-9, was the requirement to destream grade 9 the following September. The education system was expected to respond with a total redesign of grade 9 in four months of school time and two months of summer holidays, a quality project management impossibility. On June 6, a representative of the Ontario Secondary School Teachers' Federation challenged the then Minister of Education and Training, the Honourable David Cooke, to produce research supporting destreaming as an effective strategy. Mr Cooke chose not to reply because, as the OSSTF vice-president pointed out, there was no such research.

Not only was there no research to support destreaming, there was no research to support the approach taken by the Common Curriculum, Grades 1-9. I know this from personal experience, because under the Freedom of Information and Protection of Privacy Act I requested access to any large-scale empirical research which supported the approach mandated in this ministry policy document.

If the ministry had been straightforward, it would have denied me access on the basis that research did not exist. Instead, they sent me five pages of references, not one of which were relevant, leave alone being relevant research; neither was any of the reference documents anywhere close to being empirical research. I was extremely disturbed at the time with this cavalier response, and my position has not changed one iota.

Part of my submission is an article I had published in the Toronto Star May 5, 1994, dealing with the imposed, unsuccessful learning strategies. As well, there is a list of programs unsupported by comparative empirical research which was presented to a 1994 education conference at Carleton University.

It is unlikely that anyone knows the countless millions of dollars consumed by activity in the ministry and school boards caused by the Common Curriculum, Grades 1-9. On Monday this week, the Metropolitan Separate School Board staff were not able to provide trustees with even an estimate of the cost of the work outlined in a statement of direction to further work in the board on the Common Curriculum, Grades 1-9, nor was there a satisfactory answer to the question, "How do we know that what is being proposed in the Common Curriculum, Grades 1-9, is better than what we have now?" The response was that it was "thought" it would be better. In other words, because the policy was a ministry mandate,

nobody chose to examine the policy for benefit and value added. Where is the diligent search for the best and most effective practices? This lack of critical appraisal is not considered to be unique in any way to the Metropolitan Separate School Board.

1010

If checks and balances do not occur, that should be completely unacceptable to the people of Ontario. If these checks and balances are considered accepted and routine procedures in health care, why not in education? If we now think they should be carried out in education, who will do it? We believe the best current solution is the provincial audit staff, who have the breadth of vision to integrate this aspect, as one example, into a global assessment of the effectiveness of expenditures within the education, and particularly school board, environments.

Others will deal with financial ramifications in more detail this morning. I want to finish on a personal note as a separate school board trustee. I want to dissociate myself completely from the brief presented by the Ontario Separate School Trustees' Association on March 4 of this year. An auditor's management letter to MSSB invalidates their claim of efficiency.

Before we open for questions, I turn to Mrs Doretta Wilson, an MSSB parent who is active in the education reform movement of which OSBRN is a part.

Mrs Doretta Wilson: I thank members of the committee for allowing me the ability to come and speak today and Mr Hogg for giving me some of his time.

I am speaking on some parts for the Organization for Quality Education and I have some personal comments to make as well. As a taxpayer and parent I would like to support the members of the committee by urging you to proceed in making the necessary amendments to the Audit Act to allow value-for-money audits of transfer payment recipients such as the Metropolitan Separate School Board. I am a taxpayer who supports this institution as my children are educated by this board.

Over and over, parents are given the "government is cutting our funding" excuse for the inability to improve standards of education through the proper implementation of more effective literacy and numeracy programs. To date, few outright cutbacks have occurred at the classroom level. However, this is a tenuous as well as misleading state of affairs. There are sufficient funds; how they are spent is the problem.

Our board's directors have a nebulous understanding of the board's financial position because of archaic accounting practices that do not always adhere to generally accepted accounting principles.

As a parent, I am frustrated that public money is robbed out of our children's mouths, so to speak, when possible poor financial decision-making means that effective learning-to-read programs cannot be afforded by schools. Recently this has led to my own parent-teacher association, which by the way manages to fund-raise about half our school's textbook and supply budget — our PTA has been asked to purchase the necessities of education, such as required textbooks. This contravenes the Education Act. School boards continue to use methods and education programs that have 30 years of research telling directors of education that they don't work. Where is our value for tax money here?

I am also today representing the Organization for Quality Education. OQE supports the proposed changes to the Audit Act. I will read from their platform on spending on education:

"Researchers found no correlation between spending and academic achievement except in cases of extreme abundance or scarcity. Indeed, Canadian academic achievement has declined over the last 25 years, according to Nelson Canada, the publishers of the Canadian Test of Basic Skills.

"Even though government spending on public education over the past generation has increased at 7.6 times the cost of living, the Japanese spend proportionately two thirds of what Canadians spend on education and the Germans somewhat less than the Japanese, yet both Germany and Japan achieve excellent education results.

"Much better educational outcomes are possible without additional spending. In Canada" — and probably Ontario — "huge amounts of money are wasted on such things as unnecessary head office staff, curriculum development, computer programs, public relations, toys, frivolous outings, unproductive conferences and luxurious headquarters. As a result, there is little money for textbooks and evaluation.

"By far the largest haemorrhage is in the area of non-teaching staff outside the school. There is no research evidence to justify an abundance of administrators, consultants, itinerant specialists etc, as there is no research basis for small class size except possibly in the primary grades. In Korea, which gets excellent academic results, class sizes of 45 to 55 are common. We do not, however, advocate increasing the number of classroom teachers.

"However, we do endorse teachers' salaries which reflect the effort and effectiveness of competent professionals. We would like to see the best teachers rewarded for staying in the classroom instead of being promoted out."

As a taxpayer, I am appalled that no accountability exists for how or why our tax money is spent by school boards such as the Metropolitan Separate School Board. Making the proposed changes to the act becomes a necessity in light of today's financial realities and government fiscal responsibility. Every cent of education funding should not only be properly accounted for by the Provincial Auditor, but also spent for the best possible educational outcomes resulting in less expensive remediation. With the ability to know exactly how our money is being used or abused, taxpayers can be sure that public money is spent by our school boards in a more efficient, effective manner.

Mr Hogg: We're now open for questions.

Mr Mike Colle (Oakwood): Thank you for coming. I'm reminded that there was a \$10-million or something gap found in the MSSB budget this year and they couldn't account for it. I don't know if they finally did account for it; you might comment on that later.

The question I have is, given our intention here to essentially go into school boards and do some kind of accountability audit process, a value-for-money audit — you think obviously there's a great need for that — how could we be most effective? In other words, given our

limited resources in audit capabilities, how would you direct us in terms of ensuring that whatever we do is effective? It isn't where we're on basically a wide-ranging effort; we want to be very focused. Maybe you could give us a few ideas, Mr Hogg or Mrs Wilson, in terms of where we could be most effective.

Mr Hogg: One thing clearly is that when a new program is to be implemented in the classrooms, there have to be the backup data, the comparative empirical research that would indicate there is some chance of successful application of that particular strategy in improving learning in the classroom. That doesn't happen at present.

The fact that somebody is going to come in and look for that information and review it would immediately put the system on alert that this has to be done, and there wouldn't be any more, hopefully, of these fly-by-night: "It seems a good idea. It works in theory, it seems to be a great idea and therefore we should implement it." This seems to be the criterion that is used not on one occasion but again and again. A scenario of minimum activity will be required today; that's the expectation.

I had some experience with the provincial audit staff when they did their value-for-money audit on the Ministry of Education. They're very skilled people. They came to those people they knew were criticizing the way business was carried out and asked for input. There are a lot of very professional people in the reform movement who have done a tremendous amount of research, perhaps done more reading than people in education because they've got day-to-day activities they become engaged in and forget that they should be extending the horizons of their knowledge. That will be minimum workload for maximum return, and then you can start going down through the prioritization.

It wouldn't be very long before the organizational structures would become familiar to the audit staff and where inefficiencies are resident within those organizational structures. In fact, the Metropolitan Separate School Board is currently going out, and we've authorized the payment of \$50,000 to an outside management firm to look at what is called re-engineering, yet the academic side is excluded from this particular activity.

I wrote to Mr Peters inviting him to get engaged in this, because I thought the expertise should be resident within the province, rather than resident with some private entity that could then go out and make profit on it. It seemed to me that this was provincial property and should be used as such. Because of the restrictions, I got a very nice letter back from Mr Peters that I read again yesterday and had to decline.

1020

Those are two areas immediately, and there is another one. The deficits within the Metropolitan Separate School Board going back to 1993 have been the result of having more teachers on staff than were required by the collective agreements. In 1993, for instance, in the elementary panel alone there were 199 teachers over establishment — \$50,000 a year, 200 times \$50,000 a year: \$10 million. The deficit was \$10.9 million that year. This was identified again last year in the management letter I referred to, and the deputy director of human resources

admitted that they hired 90 teachers at the beginning of this year that they didn't need to hire. Once you have somebody looking into this on a regular basis, I think the money is going to be there.

Mr Colle: Ms Wilson was commenting on the fact that you're raising money for standard textbooks on a volunteer basis, which raises the question, have you done a comparison? The Catholic school board, MSSB, on a per-capita basis has less money than its counterpart on the public side. If you're talking about possible inefficiencies and waste on the MSSB side, has there been a comparison on the public side, which gets many more tax dollars per pupil?

Mr Hogg: There are some data. What we've relied on is the Sweeney report, because they went to the ministry and they did an analysis; I don't know whether you have seen it. I have these figures readily available in the memory cells. The range of spending on instruction — that excludes transportation and other things; I wanted to keep it focused in the classroom — in public boards per pupil per year goes from \$4,100 to \$5,900, so there's an \$1,800 spread there.

The way I characterized it on equity funding was, to give you some idea of what that means, suppose a textbook costs \$30 — that would be a pretty expensive textbook — it would mean that every year the board at \$1,800 per year more per student could supply the students with 60 more of these textbooks each and every year for each and every student. Is the gap between education that's delivered in the poorer boards that much greater from the richer boards? I haven't seen that in the results and I examined these results extensively. That isn't evident, so we have to believe that there are other things, apart from the amount of money available, that provokes quality education in the classroom.

Mrs Wilson: What I'm more interested in and what OQE is interested in is the long-term effectiveness of the implementation of these programs. We also have to look at the results of children studying under these programs. You have to look at testing these children long-term: "Is this effective?" A new program is very expensive to implement. Teachers must be in-serviced; there's the hardware of the textbooks themselves that have to be delivered. It's an expensive proposal to put in a new program if it is untested to begin with, which is why David was talking about looking at the research before you even put it in, and then you also have to look at testing the children over the long term to see if this is effective.

Our board has just started standardized testing, the CAT, Canadian achievement test, in grade 5 consistently over the past three years now. It's been a real eye-opener, I think, for educators as well as parents, because we aren't doing as well as we thought we would be doing. The question comes into play that obviously the children are not all stupid, so we have to look at something else. Is it what we're teaching them? If we're delivering the wrong program, let's fix the program and make sure we're putting the right stuff in there.

Instead of going out, as we have been asked to do in our PTA, and buying a whole new set of textbooks — it's just a horse of a different colour. It's another set of

books that isn't doing anything more effectively. I'm kind of annoyed at having to be a charitable donator to my school to have to buy this ineffective set of programs, and then I'm annoyed as a taxpayer that our board is constantly having to retool our textbooks, so to speak, for something that's ineffective.

The Chair: Mrs Wilson, can I just stop you there? I want to move on to our next questioner because I'm sure he wants to raise different issues.

Mr Gilles Pouliot (Lake Nipigon): Bonjour. An educator I'm not. I barely made it here 12 years ago, and the rest I picked up at the library.

Mr Hogg, I'll get to this. You are supportive — and I appreciate the submission of having the Provincial Auditor involved in a value-for-money audit to an agency, if you wish, to your school board. You express a focus on curriculum. And are the taxpayers of Ontario getting a fair bang for their tax dollars, madam?

Then you parallel the situation in — you mentioned Korea, Germany and Japan. You are an elected representative; the public has elected you to look after school affairs. You receive money by the power of levy, transfer payments from the provincial government to your board. What percentage of the pool of money you have goes to salaries, fringe benefits? Is it 70%? Is it 75%?

Mr Hogg: The last figure I came in contact with was 65%. I know that the one that is usually quoted quite widely is 80%, but I don't see it at that level; it's somewhat lower than that. But it certainly is the major component of expenditures.

Mr Pouliot: That money is appropriated to respond to collective bargaining. The teachers go to you, it's a give and take, and you can say no or you can say yes, right? You're elected by the people, fully democratic. Oh, there's one thing missing: You take a directive in terms of curriculum from the province.

Mr Hogg: That's right.

Mr Pouliot: In there, there's no accompanying envelope to give you the funding, or you feel the research leaves something to be desired, that the government rules by decree.

Mr Hogg: That's right.

Mr Pouliot: You've been in this good deed of public service for many years?

Mr Hogg: No. I've been an elected representative for 18 months, but I have met at the highest level in the ministry on this particular topic — at the highest level.

Mr Pouliot: Indeed, by your tone and confidence, and you speak of substance. You've mentioned Mr Dave Cooke — nice fellow. Has there ever been a Minister of Education you liked, Mr Hogg?

Mr Hogg: I haven't met one I didn't like. I might not like what they're doing, but certainly the people who have been in there have been very personable, charming.

Mr Pouliot: You ought to be in the diplomatic corps, sir.

I have one last question. With the highest respect, Mr Erik Peters, the Provincial Auditor, doesn't profess to be an educator. How do you see a value-for-money audit, in a broadly summarized form? What do you think he and the people on his team should do? You don't have an axe to grind; there is no vendetta here. It's just that I sense a

bit of anxiety when it comes to curriculum, and a value-for-money audit would fix the problem?

Mr Hogg: The only way of really fixing the problem of education in Ontario is to allow the teachers to use their professionalism in the classroom to deliver quality learning. That's the end result. What we should be doing is looking at things that are impeding that. With the analytical ability that resides in the provincial audit team, although they may not be educational experts, they can ask these questions.

1030

On Monday, I asked two questions of the superintendent of program design when he came forward with this statement of direction, fairly simple questions. First, there was a list of work that was to be done: "How much is it going to cost?" The answer: "I don't know." Then there was a little more discussion. The next question was: "How do you know that what you're proposing here is better than what we have already in the classrooms?" "We think it's going to be better."

These are audit-type questions. You don't need to be an educator to ask that type of questions. They come from common sense. Maybe somebody should have been asking these type of questions —

Mr Pouliot: No, no, not so fast. That's got nothing to do with the book.

Mr Hogg: There are these types of questions. I've been in the audit function. I should have told you that I spent 10 years in education, some of that as a principal. I spent 30 years in business, and part of that was as an internal auditor. I'm a professional engineer and a professional accountant. There are questions that, even though you may not have expertise in the area, you're able to draw out the information that will indicate to you whether the system, the process, is working efficiently and effectively. That is where I see this skill that would be resident there, without the necessary expertise. I could quote you experts, but we probably don't have time.

Mr Jack Carroll (Chatham-Kent): Thank you, Mr Hogg and Mrs Wilson. I think I heard you say that there's very little relationship between the money spent on education and the quality, that more money doesn't necessarily equate to a better product.

Mrs Wilson: That's true.

Mr Carroll: Do you sense that the current funding model, where part of the funding for education comes from property taxes and part of it comes from the provincial government, in any way contributes to the inefficiencies you see in the system and the lack of accountability in the system?

Mr Hogg: Absolutely. This is one of the key problems with the system. Put yourself within the bounds of Metro Toronto. You have the Metropolitan Separate School Board, which has a relatively low assessment base from which to draw — I can't remember the exact figures, but it's something like that we draw from 24% of the tax base but we educate 29% or more of the students. There's an inequity there.

If you rely solely on your tax base, you can go to that tax base and you can increase the mill rate by a minuscule amount and draw out huge amounts of money, and then you start implementing programs such as junior

kindergarten, which is now voluntary. If you happen to be coterminous with that board, you're now faced with: "Do we implement junior kindergarten or don't we? If we don't, our students are going to go to the public school system and we may not get them back again." So we're forced to take actions that we may think of in a different way, might deliver in a different way. That is a key component.

Until equity funding comes in, in my opinion, it doesn't matter whether it's the prior governments or the current government, there will never be control of expenditure in this province, never.

Mr Carroll: Assuming equity funding did happen, do you still see the need for the Provincial Auditor to be involved in the value-for-money audits?

Mr Hogg: Absolutely. If you go to those boards that claim to be poorer, you have no guarantee that they're spending the money effectively. For instance, when you go into a school, the normal size of class would be 29, 30, 32, yet the negotiated PTR, the pupil-teacher ratio, is down to 16. For every class of 32 students, there is some ghost teacher somewhere who has zero students.

Mrs Wilson: A librarian.

Mr Hogg: We need to have these people come in and ask, "Are you distributing your teachers appropriately?" This province does not know whether its special education programs are effective. I asked that question —

Interjection.

Mr Hogg: No, they're non-educator questions. I went to the board and asked, "Where are the quantitative data which tell you whether the special education programs are effective?" "We don't have it." "Shouldn't we have it? Do you expect us to go out and fund this research?" "No. This is so important that you should go to the province and get them to do it province-wide." We got a letter back from the province saying the ministry doesn't have it either.

The ministry doesn't know the percentage of readers at risk in this province. How do you know how effective your reading programs are unless you've been tracking this over a number of years? Only one board, to my knowledge, does this, the London Board of Education. In a nine-year period, the readers at risk in grades 3 and 4 rose from 5% to 22%. Who was monitoring this activity and saying, "Hey, wait a minute, something's gone out of whack here and we've got to bring this back under control"?

Mr Carroll: One other quick question, because we haven't got a lot of time: The health care system has an accreditation system set up where a group of peers come into a hospital and evaluate the hospital and give it an accreditation, two, three, four years or whatever. That system seems to work fairly well. I have some problems with whether the Provincial Auditor, doing value-for-money audits, can effectively assess the value of the education system. Maybe we need some other body to come in and assess the value of the education system. Do you really believe the Provincial Auditor's office has the capacity to assess the value in the education system?

Mr Hogg: Yes, I believe the Provincial Auditor can orchestrate this. We go back to the value-for-money on the ministry. What do they do if they don't have expert-

ise in that area? They go to people who do have the expertise, and they've got this for free. I spent an afternoon, and I was totally happy to be there, and I know they did this to other people. There is that huge resource out there that they can draw on and get the questions that they should be asking. These people, they're pretty sharp cookies.

I understand what you're saying, and it may be that there is benefit to doing that as well. But the system hasn't been able to self-monitor. Why would you implement the common curriculum when the teachers are against it?

Mrs Wilson: My concern is that if you get a body of peers to go in and do this evaluation, it's not an objective, arm's-length organization that is going to do this. This is the problem that exists within our school system as it is, that the teachers' unions and principals' associations seem to have most of the control over what goes on in the classroom, either directly or indirectly. That would be my concern, that you don't have an objective — I don't know the correct term — sort of like how you have a CA firm come in and do an audit of a corporation. This would not happen if you have other teachers and principals coming in there and doing what they do already.

Mr Hogg: What you suggest already happens within our board. They have a systems review group that goes around and does exactly that, but I haven't seen — quantum improvements are needed. These are not minuscule things.

The Chair: Mr Hogg and Mrs Wilson, I'm sorry that we've come to the end of your time. Thank you very much for your presentation.

Mr Hogg: Thank you very much for your time; we really appreciate it.

1040

JOHN ANDRACHUK

KATHLEEN PINTO

The Chair: Our next presenters are Mr John Andrachuk and Mrs Kathleen Pinto. Welcome to the committee. You have one half-hour for your presentation; please allow time for questions.

Mr John Andrachuk: We just have a small organizational problem here. Both Kathleen and I are left-handers, so we both immediately gravitated to the left.

Mr Steve Gilchrist (Scarborough East): Is that a bad sign?

Mr Andrachuk: I don't know.

Mr Colle: I think you're going to see who's on the other side.

Mr Andrachuk: Good morning. We're pleased to have this opportunity to assist you in the question of enhancing the Provincial Auditor's powers to perform value-for-money audits in grant institutions. Kathleen Pinto and I are both chartered accountants, and this morning we bring to you our professional viewpoints.

In addition, we bring other experience that strengthens the views you're going to hear from us this morning. Kathleen has a particular interest in one of the major grant recipient institutional sectors, and I bring a wide

private sector experience as a member of boards of directors, as a chief executive officer, as a chief financial officer, in several business sectors, including financial institutions, real estate and manufacturing.

Our understanding of this situation at this point is that the Provincial Auditor and his predecessor have been requesting the power to perform value-for-money audits in grant recipients since 1990 in order to fulfil the auditor's obligations under the Audit Act. The auditor's request resulted from denial of access due to legal opinions obtained by several institutions, particularly universities.

For six years now, you have not had the benefit of the expert advice of the Legislature's auditor's review of the use of funds provided by the province. We also understand that the auditor has come forward this year with a focused set of targeted institutions which collectively receive approximately \$25 billion, and that he has explicitly recommended that he not pursue other organizations where he could not effectively audit the use of the grants.

This \$25 billion represents well over half of all provincial government program costs and is approximately \$2,500 for every sentient being in Ontario. So I'm paying \$2,500, Kathleen is paying \$2,500, and I've got five kids, so seven times \$2,500 — my family is paying almost \$20,000 for these particular schedule A grant recipients.

We find it stunning that the Legislature has not exercised its responsibility nor utilized the full range of its powers to ensure that over half of the money it spends each and every year on behalf of the people is wisely and prudently utilized. The Legislature appears to have naïvely relied on the efficacy of the governance mechanisms that it believed were present in the grant recipient institutions. However, as we shall demonstrate with a concrete institutional example, this reliance and belief are indeed naïve.

The public's moneys are not being responsibly administered, and this should come as no surprise. We now know, broadly speaking, that our governance mechanisms, both private and public, are inadequate. The private sector for several years now has been decisively addressing the need for governance reform. Our public institutions are only now beginning to glimpse the defect and needs. The public expects you to govern responsibly in their interests.

This morning I was reading one of the newspapers — the *Globe*, I think it was — and there was an article here on the fact that Sir Adrian Cadbury is in town, speaking to some group of friends. The end paragraph says:

"He says he is becoming increasingly interested in the responsibility of shareholders for promoting good corporate governance. In Britain, he says, institutional shareholders that were once entirely passive investors are at least voting their shares at meetings.

"What we've done is given them an agenda, a checklist, so that they can play their part," he says. "That is increasingly becoming the driving force."

He headed up a major commission in Britain that gave a report in 1992 on corporate governance that resulted from disgraceful corporate failures. The Brits put this team together, they gave a recommendation, and the recommendation indeed is being implemented.

The point of this is that shareholders are now saying: "Enough is enough. We're not going to put up with boards of buddies who come in, have lunch, chat about whatever, go home, and the organization fails."

In Canada, as you know, we've had a number of institutions, several of which I'm intimately familiar with, in the financial institution sector that failed because of gross mismanagement and corporate misgovernance, starting from the top down. The boards of directors failed, whether it's Royal Trust or Confederation Life or a number of others. I happen to know the situations intimately. They failed as a result of governance failure.

As a result of these problems, these *débâcles*, the private sector has started to realize that they'd better get their act together, and they're being forced to do so from the top down, by the shareholders, the public in general. That's exactly what's happening here. That's why the two of us are here this morning. We believe there's an opportunity here to do one little thing about this.

We believe you must utilize all the tools at your command to ensure that public bodies you're funding are responsibly managed in the public interest. The Provincial Auditor, your Provincial Auditor, is an important control tool. It's only one little part, but it's an important little part. He must be enabled to fulfil his duties under the act. We're here today to strongly recommend you give him the power not only to ensure compliance of the intended use of funds but, as well, to report to you on the effectiveness of their use, and we also recommend that the Legislature act to put in place accountability legislation.

The province is in effect the operational banker for thousands of grant institutions. In particular, the auditor's schedule A group consumes \$25 billion each year for operating and capital costs. No banker or investor would ever provide this relative degree of funding, representing over half of their own revenue flows, without tight accountability and auditability.

We notice that most of the recipients you've heard from so far have been extremely negative on the idea of value-for-money audits. These include the Council of Ontario Universities and the Ontario Separate School Trustees' Association. The local health agencies shone in contrast; they were like burning beacons of reasonableness and responsibility.

The negative organizations seem unable to comprehend that you, the Legislature and the public accounts committee, have a responsibility to ensure that effective control mechanisms not only exist but demonstrably operate. We are unsympathetic with their concerns.

A central characteristic of public institutions, in contrast to private sector entities, is that crucial checks and balances are absent. They cannot go out of business, their customers cannot leave them to go elsewhere, and the money just keeps on rolling in regardless of their degree of honesty, probity, prudential management, efficiency or effectiveness. A control mechanism and the exercise of that control mechanism and the rigorous use of it is even more important in public institutions than it is elsewhere, because these public institutions lack the natural control mechanisms that you'll find with businesses, organizations in the private sector.

We're pleased to see that the auditor has indicated a focus by virtue of his decision to audit only the schedule

A recipients, and that he has demonstrated economy by reducing his staff significantly over the past several years. You should demand that this focus be even further tightened by a focused use of the value-for-money technique. The auditor should go where the bucks are and target major opportunity sectors where the results of a single audit can be used as a paradigm to influence the rest of the gang in the targeted sector.

Here's what I mean by that: Go in one place and go from stem to stern, tear it apart. The auditor should be sure to be careful on the choice of his targets, and he should go in and use that as an example to be utilized throughout that sector. Whether it's to strike fear into the hearts of mismanaging so-called executives in that sector or whether it's to be used as a set of methods doesn't really matter. The fact is, if you've got an example, the example can be set to be followed.

While we're conscious of the need to ensure the auditor's independence, we suggest that you should demand a strategic plan from the auditor for the audits, using the expanded powers, and that this plan should be reviewed with you at the outset and then periodically thereafter. In other words, it would probably be a smart idea if you heard from Mr Peters what he plans to achieve by doing what he plans to do before he goes in, that instead of reading about it in the *Globe and Mail* the day after the release, you ought to know what he is intending to do and how he's intending to do it. You should exert and maintain control to ensure that the audits have a purpose and do not simply become a procedural exercise, which is a natural tendency of all bureaucracies.

Schedule A clearly illustrates where the bucks are and consequently where the focus should be: health, \$10 billion; education, \$7 billion. That's about 70% of the \$25 billion that Mr Peters has identified.

We would now like to concretize our recommendations by illustrating the long-term result of the absence of structured and enforced control mechanisms with the example of a dysfunctional major institution. This institution is the largest entity in Canada in its sector, with operating expenditures of over \$700 million, provincial grants last year of \$240 million, and, with over 9,000 employees, is one of the 15 largest employers in the GTA. In other words, this institution is important, and its performance or malperformance, as is the case, conditions the performance of other analog institutions.

Kathleen will now review this institution's situation as an example of the degree of improvement opportunities that are available to the people of Ontario.

1050

Mrs Kathleen Pinto: Ladies and gentlemen, we thank you for the opportunity of appearing before you on this urgent issue. We've been following the deliberations of your committee regarding value-for-money audits, and we have certain observations which we believe are relevant for your consideration.

In reviewing the presentations to date before your committee, we noted that there was a presentation made on March 4, 1996, by the Ontario Separate School Trustees' Association. This group cautioned against amending the Audit Act to allow value-for-money audits of recipients of provincial government grants on the basis

that "accountability and efficient use of funds are the norm of separate school boards and other assessment-poor boards in Ontario." It also argued that "the proposed amendment would represent a further intrusion of government." It further stated that "there is accountability to members of the board, and through them to the pupils, parents, ratepayers and to the community at large." This assurance, however, was somewhat contraindicated by the statement that "as a result of wide discrepancies in the per pupil cost of operation, it is difficult for ratepayers to understand the costs of education." It was also stated that "assessment-poor boards are efficient."

We believe that value-for-money accounting does not focus merely on efficiency.

We've been following the course of one of your ministry's grantees, specifically the Metropolitan Separate School Board, which received grants of \$238 million in 1994 and \$231 million in 1995. Referring to the Provincial Auditor's presentation on amendments to the Audit Act on February 1, 1996, we noted that in schedule A major grant recipients, specifically in the education and training sector, \$4.5 billion is granted to school boards. This means that our particular board receives approximately 5% of all the funding available to school boards in Ontario. This board therefore constitutes one of the major clients of the Ontario ministry. It should also be noted that the MSSB incurred operating deficits of \$6.7 million in 1994 and \$8.4 million in 1995.

We've studied the audited financial statements and the management letters issued to this school board by their auditors, and there are several major financial and management system problems disclosed by these documents. Knowing that the audit fee was in the neighbourhood of \$50,000 for this organization which has a total operating budget of \$700 million annually, we can also appreciate that there can be only minimal independent scrutiny of the accounts by the independent auditor. Their fees are just too low for them to be able to do any comprehensive analysis of how the systems are operating within this organization.

Without knowing the particulars of MSSB's internal operating and financial management systems, we relied in our presentation here upon the auditor's management letter to gain some understanding of the types of problems confronting this organization during a period of declining revenues. To state that our analysis of the management letters and audited financial statements failed to inspire confidence is an understatement.

We have summarized herewith a number of the problem areas identified because they provide important, independent and professional insights into the gravity of the financial and management problems confronting this particular grantee. The current problems are several, and the ones we've identified and will talk about today include:

(1) Inadequate budgetary controls. The 1996 budget for this organization was not approved until late in the fifth month of its current fiscal year. During the past two months, taxpayers have been attempting to follow the budget process, and they've been provided with many, many different estimates of what the deficit position would be this year. For an organization with an annual

budget of \$700 million to have advanced five months into its fiscal year without an approved budget suggests that financial controls must be grossly inadequate. How can prudent spending decisions be made in the absence of a budget? How can departments prioritize their objectives without knowing the resources available to them?

(2) Exceptions to compliance with generally accepted accounting principles. The 1995 audited financial statements point out in the notes several areas in which accounting policies are not those generally followed. They focus specifically on several accrual accounting methods which are not followed with respect to their interest expense, their liability for sick leave benefits, the board's obligation for retirement benefits for employees who have retired, and the board's obligation for sick leave benefits payable in 1996 to employees who have retired.

The problem with these abovementioned policies is that the organization is not recording financial obligations as they occur. Consequently, its future operations will be negatively affected by these obligations as they become subject to payout. To record the obligations as they are incurred would add considerable integrity to the budget process and provide a better matching of costs with the activities associated with incurring those costs.

I also note that on April 2, 1996, a management letter from the auditors to MSSB states, "Periodic budget and expenditure reports are not prepared on an accrual basis, resulting in significant differences between the December 31 financial statements and the periodic budget and expenditure reports." In other words, their budgetary process is inadequate for the responsibility assigned to them.

(3) Ongoing deficit problems with this board. The board was forced to allocate \$11.8 million of its 1995 budget to retiring portions of the operating deficits from 1993 and 1994, and it also made principal and interest payments of \$16.3 million. What that means is that \$28.1 million, or 4% of its operating budget, was eaten up in financing charges and debt retirement obligations.

(4) Inadequate and weak financial and management reporting systems. A management letter from the auditors was issued on March 22, 1996. It contained several alarming observations. I think it should be noted that these observations arose out of the work done to enable the auditor to evaluate the system as required by generally accepted auditing standards. The auditor's study was not designed for the purpose of expressing an opinion on internal controls, and so it would not necessarily disclose all the weaknesses in the system.

The organization failed to meet its social contract obligations because of confusion as to how to implement and monitor social contract requirements. The management reporting system is not designed to handle the different year-ends the board has to deal with. Our board has a different fiscal year-end of December 31, the ministry's fiscal year-end is March 31, and the social contract obligations worked on an August 31 basis. That the management reporting system had not been modified to enable staff to deal competently with its reporting and statutory requirements is highly questionable. To bring this down to a real-life picture, the board was overstaffed during its social contract period by approximately 110

staff members, and it was this overstaffing that was admitted to have occurred due to accounting errors. The cost is significant; it is over half a million dollars.

In late 1995 the board approved an early retirement incentive plan which was so attractive that over 120 teaching staff left our teaching system in mid-year at December 31. Although numerous questions were raised concerning the wisdom of this plan prior to its approval, it was argued by management that it would save the board money, because senior retirees at the top of the pay scale would be replaced by entry-level teachers at the bottom of the pay scale. Unfortunately, due to the social contract errors described a minute ago, no new teachers will be hired, so the cost savings will not be realized in the first year. The notes to the 1995 audited financial statements also disclose a liability of \$4.6 million for retirement gratuities to be paid in early 1996.

Plans like this need to be reviewed by experts to determine if the stated objective of the plans are in fact being met. The present statutory audit merely confirms that the moneys are legitimately being spent, but the statutory audit does not report upon the plan's success in meeting its stated objectives. In this case it was supposed to save money, but we have no way of knowing if that is happening now.

The management letter also points out that the organization does a review of enrolment data on a test basis and that it tests six elementary schools a year. The auditors point out that on this basis it will take over 20 years to review the enrolment data of every elementary school. I know there are 185 elementary schools in the system. I estimate it will take over 30 years to audit every school. It is unlikely that there would need to be a huge investment in human resources or a highly sophisticated internal audit program to accurately determine the enrolment of a larger sample of schools on an annual basis. But I think it's very interesting that the board's management comment back to the auditor over this criticism was that "finding the time and resources to achieve this might prove difficult." To me, that suggests there are internal management reporting problems which are preventing this type of improvement from occurring. **1100**

The auditors also criticized the board for moving capital and operating items back and forth from capital to operating funds. Although the board indicates that, in future, items once approved will remain in their fund budget, the fact that this type of movement was occurring signals serious weaknesses in budgeting, financing and control areas.

The auditors point out that, on average, 24% of the total repairs and maintenance expense was incurred after November 17, 1995. What this means is that a material portion of this expense is made within the last six weeks of the fiscal year. This rush to spend at the end of the fiscal year raises the risk that poor decisions will be made and that non-urgent expenditures might be undertaken to preserve budget allocation in future years.

(5) There are inadequate budgetary, financial and management controls in this system. In April 1996, the auditors issued a letter of recommendations regarding the 1995 operating deficit. The auditors had been hired for a

special assignment in which they discussed budget preparation and periodic reporting processes with staff and management in the finance and personnel departments. Serious criticism of the budgeting and reporting processes was made after this investigation and it was stressed that ownership and accountability for budget processes must be communicated throughout the organization. It was also recommended that ownership and accountability be designated to the departments which manage and control spending. In other words, the controls aren't there now; they've got to be implemented in order to make this organization function effectively.

(6) This organization does not have an audit committee. Although one existed in the past, it apparently did not meet regularly and eventually it was disbanded. I realize there is no legislated requirement to have an audit committee for a school board, but it would seem to me that an organization with a \$700-million annual budget whose main source of funding is grants from provincial and municipal sectors should find some benefit from the input of an audit committee which would serve to strengthen the auditor's position by providing a mechanism to assure his independence from management and by providing avenues for communication and discussion with individuals other than those actively managing the organization. The auditors, as representatives of the members of the school board, would therefore be provided with formal and required access to the trustees, who are non-management individuals.

In conclusion, we concur with the Provincial Auditor's efforts to have the legislation changed to enable the Provincial Auditor to engage in value-for-money audits on the grantees of provincial government grants.

As the above presentation points out, there are several red flags waving with respect to the Metropolitan Separate School Board's accounting, budget and management processes. Although this institution is struggling to maintain its level of operations in the face of declining revenues, it is evident from the audited financial statements and the auditors' special report on the 1995 deficit that its ability to operate effectively is seriously undermined by poorly designed and outdated management information systems.

We believe it is urgent that the Audit Act be amended to introduce value-for-money auditing. Although cash-poor boards may believe they are operating efficiently, it is highly questionable that they are operating effectively. Implementation of a value-for-money audit at a school board such as Metropolitan Separate School Board would enable the Provincial Auditor to review the operations of a significant grantee and at the same time obtain an in-depth knowledge of the types of financial and management problems challenging the recipients of this province's tax dollars.

A value-for-money audit at a board such as MSSB would undoubtedly confirm Mr Peters's statement in his presentation on February 1, 1996, that, "Most of these grant recipients operate within different, but in most cases quite inadequate, accountability frameworks with the fund granting ministries."

That being the case, the provincial government is unable to meet the current public emphasis on account-

ability which has, again in Mr Peters's words on February 1, 1996, "an implied expectation that funds provided to organizations will not only be spent for the intended purposes...but will be spent prudently with regard to economy and efficiency, and that adequate procedures are established for the measurement and reporting on the effectiveness of programs which we assess in value-for-money audits."

The financial problems challenging provincial grant recipients such as MSSB must be identified and dealt with if the public's expectations are to be met. The Provincial Auditor has been seeking the authority to discharge his responsibilities with respect to meeting these expectations since 1990. It is time to give him the authority to get on with his work.

The Vice-Chair (Mr Mike Colle): Thank you very much. We don't have any time for questions; you've used up the 30 minutes. I want to thank you on behalf of the committee for a very comprehensive analysis of the case study with MSSB and your comments on the auditor's initiative here in introducing value-for-money audits. As members of the auditor's committee, we appreciate this type of effort and interest in an area that we feel is very important. On behalf of the committee members, I commend you for taking time to do your research and analysis and bringing it forward to the committee. We will be using your comments in our deliberation as a committee as we proceed with this amendment, hopefully. Again, on behalf of the members of the committee, I thank you for showing an interest in an area that is impacting on a lot of taxpayers and a lot of students.

Now we'll take it into committee. I don't think there are any more deputants. I'll hand it over to Mr Peters to give us an idea of where we go from here and to give us a bit of direction.

Mr Erik Peters: This far, the committee has received about 19 exhibits from various people talking about the particular issues. What I'd hoped to accomplish in today's session was to discuss some of the points and concerns raised by the witnesses who have appeared before the committee. That would essentially be today's session, the paper I would like to present to the members, and to stand questions you may have on those particular issues.

The Vice-Chair: That would be fine. You have that paper?

Mr Peters: Yes, I have that paper.

The Vice-Chair: I'm sure that would be fine with the committee.

Mr Peters: Although you'll find that the paper is marked "Confidential," it is a public document. What I'd hoped to achieve with this stamp is that it wouldn't be left behind in the room afterwards. They take on a life of their own.

The Vice-Chair: I'm not quite sure of the status of these. In other words, they're marked "Confidential" —

Mr Peters: I've caused confusion that I didn't want to. It is a public document.

The Vice-Chair: So members of the public would be allowed to have a copy of this?

Mr Peters: Definitely. There's no problem.

The Vice-Chair: Maybe some of the deputants would like a copy. It's comments on some of the things they

commented on. Perhaps we could get you, Mr Peters, to briefly highlight some of the key points you want to make the committee aware of through this paper.

1110

Mr Dave Boushy (Sarnia): Can I ask a question of Mr Peters? What are the requirements right now of the boards in regard to letting the taxpayers know their financial position? There must be some audits done.

Mr Peters: Yes, there are. Essentially, the first group of organizations we are referring to that receive about \$25 billion generally — there may be exceptions — do have external financial auditors who annually present financial statements to the board or the governance organization of those organizations.

Mr Boushy: Without you or the government getting involved in their operation, can there be an amendment or new direction to make them do what you want them to do through these channels of audit?

Mr Peters: There are two aspects of the question. One aspect is that if you want the external auditors who are currently conducting the financial assurance audit to also do value-for-money audits, they would then have to be funded out of the tax basis of the individual organizations, and there is a question as to how that would be regulated and who would fund that particular work.

The second one is that there have been, for example, repeated attempts to get my organization to audit some of the school boards, and in most of those cases we had to decline the request because, under the current act, we could only look at the accounting records; they're already being audited, so we couldn't add value to the process in the audit. That's what this amendment is.

In past history, and I don't want to go too long, after we did the audit on curriculum development and special education, for example, there was an attempt made by this committee to see if we could not do, effectively, value-for-money audits on some of the school boards. There was a legal opinion obtained at that time by this committee from legal counsel of the research of Parliament, saying that in such a motion the committee could not add additional powers of access to information to my office. In other words, even if the committee instructed me to carry out a value-for-money audit of a school board, I was still hampered by the legislation, which said I could only look at accounting records. So I couldn't take that next step.

There have been continuous efforts — we have major debates, by letter, with various school boards. There was a second problem school boards were facing; that is, a number of school boards have actually requested that we come in and do value-for-money audits and I had to decline on the basis that they were not grant recipients; they were entirely funded by the ratepayers. Of course, on those audits, even if the Audit Act is amended, I still cannot go in, because the Audit Act is still geared to organizations that receive grants from the province and that receive grants with strings attached. In other words, in the traditional situation of a school board, the province gives the grant really to make the school board a partner in the implementation of the provincial Education Act.

The Vice-Chair: I think that's a good summary. Mr Peters is going to proceed, to highlight some of the key points in his paper.

Mr Peters: That is before you. If you want to cut off the edge that has "Confidential" — I got taught to write it in, but it is not confidential; it's a public document.

In light of the presentation we have just heard about the Ontario Separate School Trustees' Association, I won't go into it because it largely repeats — the witnesses have very well presented to you the concerns they have about the presentation made. The general point is that it appears that the Ontario Separate School Trustees' Association does not necessarily represent the views of all the separate school board trustees. We have had letters from a trustee and we have also had a letter from management asking us to do an operational audit.

Just to put it into perspective, separate school boards in the province receive about \$730 million a year from the provincial government, and the Metropolitan Separate School Board received \$260 million. I'm in no position to discuss with you how we arrived at our \$260 million, which is from the latest record, and the presentation made on \$238 million, but it gives you an order of magnitude. OSSTA represents 51 boards, and about a third of the money is given to this Metro separate school board.

We have dealt with their individual points on the first pages of this. We have also dealt with the Association of Local Official Health Agencies on page 3. One of the major concerns we have to deal with, and that was brought up by the other health organizations as well, is the matter of access to confidential patient records.

If you will recall, the committee had invited the privacy commissioner to deal with that issue. As a result of that presentation, as well as meetings subsequently held between the privacy commissioner and ourselves, the amendments to the Audit Act will propose restrictions on the use of that information which were proposed by the privacy commissioner, so we should be in a fairly good position on that.

The details of that are on page 8. In that particular aspect, we are proposing that we "shall not collect or retain personally identifiable information, except as may be necessary for the proper administration of this act or any proceedings under this act."

Then (b), to make the constriction really count, is, "Where collection or retention of personally identifiable information is necessary as set out in clause (a), personal identifiers other than the names of individuals shall be used in regard thereto."

Our legal counsel has done that, and when we come with the final proposal, we have taken into consideration existing legislation in Alberta, section 15(4) of the Alberta act, where they simply said:

"The Auditor General or an employee of the Office of the Auditor General who receives information from a person whose right to disclose that information is restricted by law, holds that information under the same restrictions respecting disclosure as governed the person from whom the information was obtained."

In other words, we cannot have more rights of access than the people who maintain the records. We are quite willing to delete any information. As I explained to you, we are going to use this kind of information only for the purpose of validating statistics. We really don't care who

received an appendectomy, just that an appendectomy was performed at that hospital.

One particular presentation was made to which I really would like to respond in some depth, and that is the presentation of the Council of Ontario Universities. I deal with that on page 4. The key concerns we have is that we are effectively dealing with a bit of a problem of a failure to inform you properly of the state of accountability in Ontario's university system. Let me give you a very quick background. Most of what I'm talking about initially is on page 7 of this report.

As you know, my office conducted audits of selected universities. Part of that, and also the wish of this committee and other forces combined to ultimately result in a report which looks like this, called *University Accountability: A Strengthened Framework*, Report of the Task Force on University Accountability. It was the Broadhurst commission and was published in May 1993. If some of you recall, Bill Broadhurst is the same Bill Broadhurst who chaired also the Ontario Financial Review Commission.

1120

We are concerned that the council in its representation to this committee failed, and I underline failed, to adequately update the committee on the May 1993 Report of the Task Force on University Accountability entitled *University Accountability: A Strengthened Framework*. That report was triggered by our limited-scope inspection audits of the universities in the late 1980s. The council failed to advise your committee of the following quote from page 63 of that report:

"In our," the task force's, "meeting with the University of Toronto, the president stated that his institution would not now oppose amending the Audit Act to extend the powers of the Provincial Auditor to audit operating funds transferred to restricted accounts. The task force favours such a change. It will satisfy one of the concerns of the Provincial Auditor and the standing committee on public accounts."

What is of interest is that when the council appeared before you, also inscribed as a witness was indeed the president of the University of Toronto; however, he did not appear at that meeting. There was a second invitation extended and again the president was not able to present his views to you. But it appears clear to us from that particular statement that the council's opposition to amending the Audit Act is not shared by Ontario's, indeed Canada's, largest university.

As well, the council failed to advise PAC that the accountability review committee, recommended as the external monitoring body by the task force in recommendations 40 to 47, inclusive — that is, seven recommendations dealing with this issue — was not established. Consequently, the "pilot project for institutional reviews [to] be undertaken by the accountability review committee in the 1993-94 academic year" was not carried out.

Again, I consider this a very serious failure that you were not advised of this. These are seven of the 65 recommendations of this report, which dealt with this issue, which established membership funding and the mechanism and all these things as to how universities were supposed to regulate their own accountability. The

committee was not informed by the council of this, that they had simply failed to establish this committee and therefore that committee had not carried out any work.

The council also stated in its testimony that "if the Provincial Auditor today went into some of the universities to look at the efficiency framework, he wouldn't find it, and therefore it would be rather difficult to audit it." Now, that is a direct quote from the council's presentation to you. This would appear to be an admission of failure by the governing bodies or councils of those universities, since the council cited the chair of the task force, Mr Bill Broadhurst, as follows, "Responsibility for ensuring that adequate accountability systems are in place and functioning properly rests with the governing body or council of each university."

We consider the value-for-money audits of our office to be a catalyst for action to improve efficiency and, as such, a service both to the auditees and to the Legislature which voted these grants.

We agree with the council that each university must decide how it is going to assess its own effectiveness, but note that the council again failed to advise the committee that the universities have not reached agreement on, let alone implemented, the performance indicators upon which development commenced several years ago by the Council of Ontario Universities and the CUPA committee on accountability. I'm not sure what CUPA stands for.

Since our audit mandate is to assess if procedures to measure and report on effectiveness have been established and are satisfactory — that is our audit mandate — it is clearly not part of our mandate "to bring different measurements to the university system." They must establish their own measurements. This was a council concern according to page 200 of the March 4, 1996, Hansard. However, we would bring it to the attention of the university and the Legislature if procedures to measure and to report on effectiveness were not established or were unsatisfactory.

Our office has built up its expertise in value-for-money auditing since 1978 and legislative auditors are considered leaders in this audit discipline. There is indeed certain expertise in value-for-money auditing in the private sector firms conducting the attest audits of university financial statements, but under the current restrictions of the Audit Act, my office does not have access to the resulting reports by those private sector firms. Furthermore, those auditors report to the governing body or council of the individual universities. There's no requirement to disclose such audit reports to the ministry or beyond. If such value-for-money audit reports existed at any university, they would of course be carefully considered by us as part of our proposed expanded mandate and would be used to reduce the extent of our work if we found the report sufficient to do so.

Overall, in the universities we are very concerned.

We also in the text dealt with one specific area that maybe I should state as well. The council advised you that I had not acceded to their protocol. In other words, what they had said is that recommendation 34 of the Task Force on University Accountability — this document again — stated that the Provincial Auditor be given authority to conduct inspection audits of all funds pro-

vided by the government of Ontario for operating purposes, whether employed directly for these purposes or transferred to other accounts, and that this additional authority be granted preferably through a protocol with the institution. The council considered this an appropriate solution to deal with the limitations of the current inspection audit mandate, ie, not to change the definition of an inspection audit but to advocate a protocol.

"Such a protocol was developed by the council and submitted to the Provincial Auditor, but regretfully he chose to reject it."

The council neglected to advise you of the reasons I gave you for rejecting this protocol. In my letter of October 20, I stated, "While the protocol represented an improvement over the limitations faced by my predecessor, it is nevertheless still based on the current definition of 'inspection audit' under the Audit Act."

I further stated that "changing the definition to permit the office to carry out all its duty under the Audit Act would be subject to public hearings by the standing committee on public accounts, at which time the council could make its views known to the committee." The committee's motion to hold such public hearings had been passed in May 1994.

As I've pointed out, the predecessor committee had already passed a similar motion, and the request to agree to this protocol coincided virtually with a motion of this committee to hold hearings. So I did not feel it appropriate to agree to a protocol that was based on provisions of the Audit Act, which may well be outdated at that stage, and would lock me into a position this committee may differ from.

These were some of the key areas where we had concerns with the presentation by the Council of Ontario Universities.

I dealt with the Ontario Hospital Association concerns. There were a number of concerns expressed about the resourcing of my office. I have mentioned to you that I was not seeking additional resources but I would just shift the value-for-money component of my work from ministry audits into some of these grant recipient audits.

The other area I need to deal with a little bit is because there were again — and I emphasize where I believe you were not fully informed because I think that is really another reason for augmenting the access to information under my act. Where organizations come forward and make statements to you that you cannot verify and that we know from our knowledge to be inaccurate, I should be able to point those out for you, and there is indeed some necessary clarification.

1130

The Co-operative Housing Federation, Ontario region: On page 11 we refer to that. The federation's submission, on an overall basis, deals more with criticisms of our reports and proposals for improving accountability and value for money rather than expressing any specific concerns. We deal with their specific points.

But at the outset, one point of clarification is necessary. On page 2 of their submission, it is stated, "In recent years, the provincially funded housing cooperatives have been the subject of audits by the Provincial Auditor." In fact, we have never performed such audits. In 1992 and

1995, we audited the ministry's non-profit housing programs. As part of the 1995 audit, we did visit a few non-profit groups to interview staff and board members, but these were mostly non-profits as opposed to the co-ops.

Our concern in this regard is again that these organizations receive a significant amount of provincial funding and there's a significant exposure by the province. I'm departing from the text for a moment. In the public accounts we state that currently the province is potentially on the hook to the tune of about \$8 billion of mortgages held by these not-for-profit organizations, so there should be an interest on the part of the province to see how these organizations are indeed spending their money.

Not only that: If indeed some of these organizations were to fail to meet their mortgage payments, there will be, to support the non-profit housing supported by the province, a significant obligation on the part of the province to take over those mortgage payments to ensure that those people put there by the province continue to have shelter and that the building cannot be foreclosed on and therefore have people put out on the street and other things happen to them. There is a direct exposure to the province on these organizations.

Furthermore, a predecessor committee of yours held hearings into the management of these organizations and in these hearings it became very plainly evident that the governance of these institutions was really lacking and accountability was just not in existence there.

In spite of their objections that we would impose new rules and new processes, we really doubt whether that would necessarily result from this. What really would happen is that it would plug you, as legislators, into the accountability loop, and you are out of the loop right now. Yes, indeed our audits in all respects will require some discussion with management, will require management time of the organizations which we audit, but I think that is a reasonable price to pay for better accountability to you, the legislators, who are, after all, spending, as we have pointed out, a vast amount of the money that is appropriated by the Legislature on these grants. There should be better accountability for these grants. As I've mentioned to you, we hope that the amendments to the Audit Act will act as a catalyst to sponsor better accountability, to work on that.

With that, I think this document largely stands on its own and I recommend its perusal to you. We would be happy to answer any questions you may have.

One quick comment, if I may, just to conclude some housekeeping: There was a total of 19 exhibits listed by the clerk to the committee. Two of these came from my office. Two came from the privacy commissioner and dealt essentially with how to deal with the privacy issue of medical records. Ten of the submissions were not supportive. In the document before you we have dealt with seven of them, but the three others, which were done by letter, essentially raised similar concerns, so I would just be duplicating effort if I were to go into those.

Four were clearly supportive. I was particularly pleased that the Institute of Chartered Accountants of Ontario, as an institution, also registered their support, and you certainly have heard today very clear support from a

trustee, as well as from public accountants again supportive of the position. One submission was really not directly to the Audit Act but started to deal with the question of liability of medical practitioners, so we didn't deal with that in particular detail.

In addition to the amendments that we will be bringing forward and hope to present to you — actually the schedule is to present those to you at the next meeting, as to how it might manifest itself in terms of legislative wording — there are not only those provisions that deal with auditing grant recipients, there are two other areas that are of a housekeeping nature that we will bring before you and that I thought I'd bring to your attention just in principle form, but you will see the detail.

One is that there have been amendments to the Public Service Act. Our act in many respects paralleled provisions of that, and there were a few provisions that we had to amend slightly in order to update them to the current Public Service Act.

The second area, and that is of interest to this committee, is that when we made the change to the new accounting rules and the public accounts of the province in 1994, or when the government made those changes at our urging, which we really appreciated, at that time a new concept was formed. Up to then the financial statements of the province essentially were the statements of something called the consolidated revenue fund. With 1994 we introduced the concept of having the province's statements be so-called summary financial statements. Technically, my act had not been updated. It still required me to express an opinion on the consolidated revenue fund.

With this, I would like to introduce the housekeeping amendment so that my office can give an audit opinion on the financial statements of the province as now designed. That is a small housekeeping amendment, but it is of importance because you are, after all, the public accounts committee, and we did change the public accounts. The public accounts committee dealt with that, so that is the tail end of it, to just bring the Audit Act up to date in that regard.

In summary, we feel that we can deal really with all objections that have been raised appropriately. I think the committee will find that our approach to these objections is reasonable and that many of the objections arose from what are really very often misconceptions as to what a value-for-money can and cannot do and how it impacts.

All three parties have made clear expressions in favour of this sort of development. I pointed out the one document, and the others have been in favour of that. I still consider an improved accountability framework as a very important feature. It would certainly help if the committee decides to let my office do these kind of audits. It will make them much more efficient if we could audit in a good, sound accountability framework.

There have been some proposals made by the government in the recent budget submission in reacting to the Ontario Financial Review Commission which are moving in the direction of improving the accountability framework, and we are grateful for that.

The Chair: Thank you, Mr Peters. Before opening it up for discussion and comments, and we'll begin with Mr Pouliot in that regard, I want to draw to committee

members' attention a couple of handouts that we've been given by Elaine Campbell, our research officer. One kind of summarizes for us. It's entitled Provincial Auditor's Proposals for Amending the Audit Act. Sometimes it's helpful to find out where we are, because we can lose sight of the forest for the trees. That's just a brief outline of what Mr Peters is looking for by way of amendments. There is a second document, which is a summary of comments and recommendations that we have received from people who presented in connection with this subject.

1140

Mr Pouliot: Just speaking for our party, it was mentioned en passant that beyond the tacit agreement, the three parties would endorse, would acquiesce the principles, but of course normalcy to me is to see the final draft and expenditure associated with it. We're certainly fully aware that some of it will not be meticulously expressed, it cannot be, but whenever possible.

Again, we focus on the Information and Privacy Commissioner. It makes people on our side of the House very nervous indeed. We don't wish to catastrophize — it's not our role here — but we want ironclad assurance in the draft spelling out the specific purpose for which one would access records. I've been asked to convey that you.

Mr Peters: That is of course an issue that has been very close to us, that we have carefully dealt with. When we, hopefully at the next meeting, will be presenting our proposals, I'd be very pleased to add to that the specific letters we received from the privacy commissioner in this regard.

Mr Gerard Kennedy (York South): I just would ask the indulgence of the committee for a new participant. I wonder if I could ask Mr Peters with respect to the two presentations we heard. A couple of things came to mind, and they have to do with the effectiveness of these further powers in terms of the public interest. It seemed to me that the presentation about the inadequacies of the school system, the effectiveness of curriculum is only subject to certain kinds of objective testing in the context of an audit, a value-for-money audit. I wonder if you can comment on how applicable some of the concerns raised in the first presentation today would be to the value-for-money audit.

Second, in the second presentation we heard a lot of what traditional audits had uncovered at the Metro separate school board, substantial management concerns in the management letters there, and how the value-for-money audit would add to the effectiveness of the school boards in effecting those seemingly necessary changes; in other words, how it wouldn't duplicate.

Third, because it all relates to how much this will bring to the overall public scrutiny, there is always a certain salaciousness to numbers, especially when they come out. As a new thing, how will this not distort people's perceptions of some of these granting agencies which are partners with the government?

So those things, all relating to your perception of how this new role for your office will work.

Mr Peters: Let me maybe start with the tail end of your question first, if I may. As far as a role is con-

cerned, it is really not new. Section 13 of the Audit Act had always made a provision that my office could actually audit the records of grant recipients. The only problem was that those audits were restricted to so-called accounting records, by definition.

So I'm not seeking new access to organizations. All I'm seeking is actually a widening of the records which I can look at so that we can conduct audits, whether money was actually prudently spent. Part of that which may be worth repeating and which was alluded to in some of the presentations was that when we tried to do audits under the old regime, legal opinions were obtained which prescribed accounting records very narrowly so that, for example, the management letter that one of the witnesses — I believe it was Ms Pinto — referred to this morning, under that legal opinion, was not accessible to my office. I couldn't even look at that to carry out an audit. What we're really seeking is the access to the records that are necessary to examine. That is what we are trying to achieve.

The second part — I think the point was very clearly made, and I compliment the people who appeared this morning on that — is that really, the value-for-money audit is not an end in itself. It is a means to an end, and it hopefully does two things

First, it improves the appreciation and accountability of management to the governing board of the grant recipient. In other words, to have that input and work with it allows the board of directors or whatever it is to govern the institution better.

The second is to put essentially the Legislative Assembly, as the grantor of this \$25 billion, into the loop and improve the accountability to the Legislature and thereby have one very important byproduct, and that is that the ministries that administer these funds throughout the year also strengthen their accountability framework, the methodology they are using, in which they are spending the funds.

A very important part of that is that we have heard quite a bit thus far about accountability and conditional grants and unconditional grants. One of the things we have made very clear in our representation is that where the Legislature, in its wisdom, says, "We're going to give you the money simply because you're you. You are a person in need who needs a family benefits allowance. You are a medical practitioner who is rendered a fee for service. You are a municipality and the government has decided to give each municipality a certain amount of money. We don't care what you spend it on, but that is an unconditional grant," those we don't really want to look at. That would be an imposition on individual rights, and Parliament has decided that it doesn't want that.

But where we have, for example — this morning we had presentations on the school boards — the \$14 billion or so that is spent on grants to educational institutions, each one of those institutions is required by this Legislature to employ the terms of the Education Act up to secondary education and other legislation that deals with the universities. They are a partner of this government in delivering a program. Currently, as it stands right now, we have no way of finding out how well, how prudently

that money is actually spent in being a partner of this government in delivering those particular programs.

I hope that answers your question.

Mr Kennedy: I wonder if you can comment directly. I heard a wide range of concern about the way curriculum is developed and not tested and so on. Would it be directly applicable to the value-for-money audits?

Mr Peters: Very much so. In our 1993 report we reported on curriculum development, but we reported at the ministry level. In a very interesting development of that part of our audit work; to be very specific, we interviewed a total of around 700 educators — members of educational organizations, principals, people who were trustees of school boards — to come to our opinion. The upshot of it was that we were able to report only on the ministry's activities with respect to curriculum development, not on individual school boards' actions in actually implementing it.

I don't know whether you were here, but in response to the question I had before, the upshot was that this committee dealt with that issue at that time. Then, when we reported that the accountability framework within which schools and the ministry were operating was so impaired that the ministry could not ensure that the curriculum it developed was actually implemented in the classroom, at that point this committee made an attempt and asked, "Why can't you go in and do an audit of how the school boards are implementing it?" That's where we were stopped because we couldn't look at the necessary records to evaluate that; we could only look at the ministry records.

1150

Mr Carroll: Mr Peters, I wonder if you could comment on a couple of things. Up until about a year ago, as a layperson I used to read in the paper about audits conducted by the Provincial Auditor and recommendations made year after year, the same recommendations, and nothing ever seemed to result from the recommendations you or your predecessors made. If you're given this expanded ability to do value-for-money audits of our transfer partners or some of our grant institutions, do you see any obligation on their part to act on some of your recommendations? That would be my first question.

Secondly, we hear a lot about grant institutions not accounting for expenses as they incur them but rather as they have to pay them. There are tremendous liabilities that have accrued over the years that we have not made any accounting for, whether it's in vacation time, sick leave buyout or whatever. Do you believe in the concept of accrual accounting for our grant institutions?

Mr Peters: Oh, definitely. To answer that last question first, the 1994 transition to the new accounting was actually to introduce that accrual accounting at the provincial level. I'm a strong believer in full accountability.

Accrual accounting really means that expenditures are recorded when they are incurred and revenues are recorded when they are incurred. Previously, under the so-called modified cash basis we could literally — if we record expenditures only when we paid them, we would miss all these accruals. On revenues, the same thing: If we record revenues only when we actually receive the cash, we are not on that accrual basis. We have a far

fairer picture that the surplus or deficit the organization incurred is really the result of the actual expenditures incurred or the actual revenues earned in that particular period. I believe in accrual accounting, very clearly.

To get to your first question, the major impediment very often to implementing our recommendations is really diffusion or confusion about accountability. This particular amendment to the Audit Act will enforce better accountability and therefore enforce cooperation between the ministry and the grant recipients to implement these recommendations. Previously, it was sort of: "If you do this, that's really your responsibility. You have to look after that." That confusion will be eliminated. I'm very hopeful that our recommendations will become far more effectively implemented as a result of this.

The Chair: I want to remind committee members that we'll have an opportunity to pursue this again Thursday coming.

COMMITTEE BUSINESS

Mr Pouliot: If it's the pleasure of the committee, I propose the following motion:

That the committee request authorization for its subcommittee to attend the annual conference of the Canadian Council of Public Accounts Committees and that a budget for this purpose be prepared and presented by the Chair to the Board of Internal Economy.

The Chair: Is there any debate, any discussion?

Mr Pouliot: It's held once a year; in Victoria, British Columbia, this year from September 8 to September 10. It's one of those endeavours where when the state calls, you don't question, you go. On behalf of the New Democrats, I too will do the ultimate sacrifice and have the largest jurisdiction represented at the Empress Hotel in Victoria. Five members of the committee are allowed to go.

The Chair: If there is no further discussion, then all those in favour?

Mr Gilchrist: Sorry, we were busy discussing. Could you read your resolution one more time, Mr Pouliot, please?

Mr Pouliot: That the committee request authorization for its subcommittee to attend the annual conference of the Canadian Council of Public Accounts Committees and that a budget for this purpose be prepared and presented by the Chair to the Board of Internal Economy.

That's made up, as we're most aware, of two members from the Treasurer, the two House leaders from the opposition and a supplementary member for the government side.

Mr Gilchrist: Thank you. It's my understanding that the House leaders will be discussing this matter and giving their input as well.

The Chair: The committee is simply making a request at this time.

Mr Carroll: Pardon my ignorance, the annual conference on what?

The Chair: This is the 1996 conference of the Canadian Council of Public Accounts Committees.

Mr Colle: It's the 10 provincial committees and staff. It rotates every year. When did we have it here last?

Mr Pouliot: July 1993.

The Chair: Are we ready for a vote? All those in favour? All those opposed? The motion's carried.

Mr Colle: In terms of the disposition of the previous item, we're going to do that next Thursday?

The Chair: You mean further consideration of the amendments?

Mr Colle: Yes.

The Chair: Yes, next Thursday. We should at that time have an opportunity to raise further questions with Mr Peters as well. We should be receiving a letter from five ministries essentially responding to the recommendations he's made.

Mr Colle: I thank Mr Peters for his clear responses to some of the questions raised by the deputants from the colleges and trustees etc. That was a good response. Will we have to confer with the privacy commissioner again?

Mr Peters: No. We have the letter and the proposal.

The Chair: No further business? The committee stands adjourned.

The committee adjourned at 1156.

CONTENTS

Thursday 6 June 1996

Audit Act Amendments	P-251
Ontario School Board Reform Network; Organization for Quality Education	P-251
David Hogg, chairman, Ontario School Board Reform Network	
Doretta Wilson, representative, Organization for Quality Education	
John Andrachuk, Kathleen Pinto	P-255
Committee Business	P-265

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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Vice-Chair / Vice-Président: Colle, Mike (Oakwood L)

Agostino, Dominic (Hamilton East / -Est L)

Beaubien, Marcel (Lambton PC)

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*Gilchrist, Steve (Scarborough East / -Est PC)

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*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

Skarica, Toni (Wentworth North / -Nord PC)

Vankoughnet, Bill (Frontenac-Addington PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carroll, Jack (Chatham-Kent PC) for Mr Beaubien

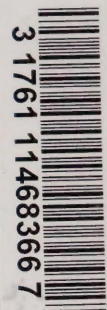
Kennedy, Gerard (York South / -Sud L) for Mr Agostino

Also taking part / Autres participants et participantes:

Erik Peters, Provincial Auditor

Clerk / Greffier: Todd Decker

Staff / Personnel: Elaine Campbell, research officer, Legislative Research Service



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